

ORAL ARGUMENT NOT YET SCHEDULED**No. 18-7004**

IN THE UNITED STATES COURT OF APPEALS
FOR THE DISTRICT OF COLUMBIA CIRCUIT

D.L., *et al.*
Plaintiffs-Appellants,

v.

DISTRICT OF COLUMBIA, *et al.*
Defendants-Appellees.

On Appeal from the United States District Court
for the District of Columbia

JOINT APPENDIX**VOLUME 1 OF 4 (PAGES 1-559)**

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U.S. District Court
District of Columbia (Washington, DC)
CIVIL DOCKET FOR CASE #: 1:05-cv-01437-RCL

DL et al v. DISTRICT OF COLUMBIA et al
Assigned to: Chief Judge Royce C. Lamberth
Case in other court: USCA, 11-07153
USCA, 12-07042
USCA, 16-07076
USCA, 18-07004

Date Filed: 07/21/2005
Date Terminated: 03/31/2013
Jury Demand: Defendant
Nature of Suit: 440 Civil Rights: Other
Jurisdiction: Federal Question

Cause: 28:1331 Federal Question: Other Civil Rights

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TERMINATED: 05/02/2011

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Sameena Shina Majeed
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TERMINATED: 09/20/2007

Plaintiff

FREDERICK DAVY
Parent and Next Friend of FD

represented by **Todd A. Gluckman**
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TERMINATED: 09/20/2007

Plaintiff

MONICA DAVY
Parent and Next Friend of FD

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Sameena Shina Majeed
(See above for address)
TERMINATED: 09/20/2007

Plaintiff

TF

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TERMINATED: 05/02/2011
LEAD ATTORNEY

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Bruce J. Terris
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TERMINATED: 02/06/2017

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TERMINATED: 11/30/2015

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TERMINATED: 11/30/2015

Margaret A. Kohn

(See above for address)

ATTORNEY TO BE NOTICED

Sameena Shina Majeed

(See above for address)

TERMINATED: 09/20/2007

Plaintiff

ANGELIQUE MOORE

*Parent and Next Friend of TF - On their own
behalf and on behalf of a class of similarly
situated individuals*

represented by **Todd A. Gluckman**

(See above for address)

LEAD ATTORNEY

ATTORNEY TO BE NOTICED

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TERMINATED: 05/02/2011

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TERMINATED: 02/06/2017

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ATTORNEY TO BE NOTICED

Lauren Seffel

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*TERMINATED: 11/30/2015***Margaret A. Kohn**

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*ATTORNEY TO BE NOTICED***Sameena Shina Majeed**

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*TERMINATED: 09/20/2007***Plaintiff****HW**represented by **HW**
PRO SE**Todd A. Gluckman**

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*TERMINATED: 05/02/2011***Bruce J. Terris**

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*TERMINATED: 02/06/2017***Carolyn Smith Pravlik**

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*ATTORNEY TO BE NOTICED***Lauren Seffel**

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*TERMINATED: 11/30/2015***Sameena Shina Majeed**

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*TERMINATED: 09/20/2007***Plaintiff****TIMOTHY LANTRY**represented by **TIMOTHY LANTRY**

Todd A. Gluckman

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*TERMINATED: 02/06/2017***Carolyn Smith Pravlik**

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*TERMINATED: 11/30/2015***Sameena Shina Majeed**

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*TERMINATED: 09/20/2007***Plaintiff****ARLETTE MANKEMI**represented by **ARLETTE MANKEMI**
PRO SE**Todd A. Gluckman**

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*LEAD ATTORNEY**ATTORNEY TO BE NOTICED***Alexander R. Karam**

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TERMINATED: 11/30/2015

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TERMINATED: 11/30/2015

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TERMINATED: 09/20/2007

Plaintiff

KERIANNE PIESTER

represented by **KERIANNE PIESTER**
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TERMINATED: 09/20/2007

Plaintiff

TL

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TERMINATED: 09/20/2007

Plaintiff

RONALD WISOR

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TERMINATED: 11/30/2015

Sameena Shina Majeed
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TERMINATED: 09/20/2007

Plaintiff

XY

represented by **XY**
PRO SE

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TERMINATED: 11/30/2015

Sameena Shina Majeed

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TERMINATED: 09/20/2007

Plaintiff

BRYAN YOUNG

represented by **BRYAN YOUNG**
PRO SE

Alexander R. Karam

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TERMINATED: 05/02/2011

LEAD ATTORNEY

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TERMINATED: 09/20/2007

Plaintiff

TAMMIKA YOUNG

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Lauren Seffel
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TERMINATED: 11/30/2015

Sameena Shina Majeed
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TERMINATED: 09/20/2007

V.

Defendant

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A Municipal Corporation

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TERMINATED: 05/13/2011

Defendant**CLIFFORD B. JANEY**

*In his official capacity as Superintendent of
District of Columbia Public Schools
*TERMINATED: 12/11/2007**

represented by **Chad Wayne Copeland**
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*TERMINATED: 10/14/2011***Eden Ilene Miller**

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*TERMINATED: 05/08/2008***Samuel C. Kaplan**

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*TERMINATED: 05/13/2011***Defendant****MICHELLE RHEE***Chancellor*represented by **Chad Wayne Copeland**

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*LEAD ATTORNEY**ATTORNEY TO BE NOTICED***Caroline B. Hutton**

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*TERMINATED: 05/08/2008***Jayne Kantor**

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*TERMINATED: 04/21/2009***Samuel C. Kaplan**

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*TERMINATED: 01/21/2015***Sarah Ann Sulkowski**

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*TERMINATED: 05/13/2011***Defendant**

DEBORAH GIST **USCA Case #18-7004 Document #1732051 Filed 05/21/2018 Page 34 of 572**
District of Columbia State Superintendent of Education

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TERMINATED: 01/21/2015

Sarah Ann Sulkowski
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TERMINATED: 05/13/2011

V.

Interested Party

UNITED STATES OF AMERICA

represented by **Peter C. Pfaffenroth**
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Date Filed	#	Docket Text
07/21/2005	1	COMPLAINT against DISTRICT OF COLUMBIA, CLIFFORD B. JANEY (Filing fee \$ 250) filed by OUL, ELIZABETH UMANA-LAZO, DARWIN LAZO, DC, DORIS COCKRELL, FD, FREDERICK DAVY, MONICA DAVY, TF, ANGELIQUE MOORE, DL, TAMEKA FORD, JB, LEAH BLAND.(jf,) (Entered: 07/28/2005)

USCA Case # 18-7004 Document # 1732051 Filed 05/21/2018 Page 35 of 572

07/21/2005		Summons (3) Issued as to DISTRICT OF COLUMBIA, CLIFFORD B. JANEY. (Entered: 07/28/2005)
08/03/2005	2	Consent MOTION for Extension of Time to <i>Move or Answer</i> by DISTRICT OF COLUMBIA, CLIFFORD B. JANEY. (Attachments: # 1 Text of Proposed Order)(Pace, Damon) (Entered: 08/03/2005)
08/22/2005	3	ORDER granting 2 Defendant's Motion for Extension of Time to answer or otherwise respond; defendant's time to move or answer is extended to and including September 12, 2005. Signed by Judge Royce C. Lamberth on August 18, 2005. (lcrcl1,) (Entered: 08/22/2005)
08/22/2005		Set/Reset Deadlines: Answer due by 9/12/2005. (mon,) (Entered: 08/24/2005)
08/25/2005	4	NOTICE of Appearance by Eden Ilene Miller on behalf of all defendants (Miller, Eden) (Entered: 08/25/2005)
09/01/2005	5	MOTION to Certify Class by DL. (Attachments: # 1 Plaintiffs' Memorandum of Law in Support of Their Motion for Class Certification# 2 Text of Proposed Order Proposed Order# 3 Exhibit Plaintiffs' Exhibit 1# 4 Exhibit Plaintiff's Exhibit 2# 5 Exhibit Plaintiff's Exhibit 3# 6 Exhibit Plaintiffs' Exhibit 4# 7 Exhibit Plaintiffs' Exhibit 5# 8 Exhibit Plaintiffs' Exhibit 6# 9 Exhibit Plaintiffs' Exhibit 7# 10 Exhibit Plaintiffs' Exhibit 8# 11 Exhibit Plaintiffs' Exhibit 9) (Majeed, Sameena) (Entered: 09/01/2005)
09/09/2005	6	NOTICE of Correction to Exhibits 1 and 3 to Plaintiffs' Motion for Class Certification by DL re 5 MOTION to Certify Class (Attachments: # 1 Exhibit 1# 2 Exhibit 3)(Majeed, Sameena) (Entered: 09/09/2005)
09/12/2005	7	ANSWER to Complaint by DISTRICT OF COLUMBIA, CLIFFORD B. JANEY.(Miller, Eden) (Entered: 09/12/2005)
09/12/2005	8	ORDER requiring a Local Rule 16.3 Conference to be held within fifteen (15) days of this date between plaintiffs and defendants; and requiring that within ten (10) days thereafter, a report shall be filed with the Court, along with a proposed scheduling order. Signed by Royce C. Lamberth on 9/12/2005. (lcrcl2,) (Entered: 09/12/2005)
09/13/2005	9	MOTION for Extension of Time to File Response/Reply as to 5 MOTION to Certify Class by DISTRICT OF COLUMBIA, CLIFFORD B. JANEY. (Attachments: # 1 Text of Proposed Order)(Miller, Eden) (Entered: 09/13/2005)
09/20/2005	10	Memorandum in opposition to motion re 9 <i>Defendants' Motion for an Extension of Time to Respond to Plaintiffs' Motion for Class Certification</i> filed by DL. (Majeed, Sameena) (Entered: 09/20/2005)
09/21/2005	11	REPLY to opposition to motion re 9 filed by DISTRICT OF COLUMBIA, CLIFFORD B. JANEY. (Miller, Eden) (Entered: 09/21/2005)
09/22/2005	12	ORDER granting Defendants? Motion 9 to Extend Time to Respond to Plaintiffs? Motion 5 to Certify Class. Defendants? time to respond to is extended to and including October 31, 2005. Signed by Judge Royce C. Lamberth on 9/22/05. (lcrcl2,) (Entered: 09/22/2005)
09/22/2005		Set/Reset Deadlines: Defendants' Response to Plaintiffs' motion to certify class is due by 10/31/2005 (mon,) (Entered: 09/22/2005)
10/07/2005	13	MEET AND CONFER STATEMENT. (Attachments: # 1 Text of Proposed Order Plaintiffs' Proposed Order# 2 Text of Proposed Order Defs' Response to Pls' Proposed Order)(Majeed, Sameena) (Entered: 10/07/2005)
10/11/2005	14	ORDER setting schedule. Signed by Judge Royce C. Lamberth on 10/7/05. (lcrcl2,) (Entered: 10/11/2005)
10/13/2005		Set/Reset Deadlines: Motions for protective order due by 10/31/2005. Plaintiffs' Reply to their

		motion for class certification due by 11/30/2005 (mon,) (Entered: 10/13/2005)
10/28/2005	15	Joint MOTION for Protective Order by DL. (Attachments: # 1 Text of Proposed Order Proposed Protective Order# 2 Exhibit Attachment A)(Majeed, Sameena) (Entered: 10/28/2005)
10/31/2005	16	Memorandum in opposition to motion re 5 <i>Class Certification</i> filed by DISTRICT OF COLUMBIA, CLIFFORD B. JANEY. (Attachments: # 1 Text of Proposed Order)(Miller, Eden) (Entered: 10/31/2005)
10/31/2005	17	ORDER granting Joint Motion 15 for Protective Order. Signed by Judge Royce C. Lamberth on 10/31/05. (lcrcl2,) (Entered: 10/31/2005)
11/10/2005	18	MOTION to Dismiss for Lack of Jurisdiction by DISTRICT OF COLUMBIA, CLIFFORD B. JANEY. (Attachments: # 1 Text of Proposed Order)(Miller, Eden) (Entered: 11/10/2005)
11/16/2005	19	MOTION to Dismiss <i>Section 504 Claim</i> by DISTRICT OF COLUMBIA, CLIFFORD B. JANEY. (Attachments: # 1 Text of Proposed Order)(Miller, Eden) (Entered: 11/16/2005)
11/22/2005	20	Consent MOTION for Extension of Time to <i>Oppose Motions to Dismiss</i> by DL. (Majeed, Sameena) (Entered: 11/22/2005)
11/22/2005	21	ORDER granting 20 Plaintiffs' Consent Motion to Amend Scheduling Order. Plaintiffs' Opposition to Defendants' Motion for Dismissal of the Complaint shall be due on December 10, 2005; Plaintiffs' Opposition to Defendants' Motion for Dismissal of Plaintiffs' Claim of a Violation of Section 504 of the Rehabilitation Act shall be due on December 16, 2005. Signed by Judge Royce C. Lamberth on 11/22/05. (lcrcl2,) (Entered: 11/22/2005)
11/22/2005		Set/Reset Deadlines: Plaintiffs' Response to Dispositive Motion by defendants due by 12/10/2005. Responses by plaintiffs' to defendants' motion to dismiss certain claims is due by 12/16/2005 (mon,) (Entered: 11/23/2005)
11/30/2005	22	REPLY to opposition to motion re 5 <i>Class Certification</i> filed by DL. (Attachments: # 1 Exhibit 10# 2 Exhibit 11# 3 Exhibit 12# 4 Exhibit 13# 5 Exhibit 14# 6 Exhibit 15# 9 Exhibit 16) (Majeed, Sameena) Modified on 12/7/2005 (tg,). Additional attachment(s) added on 12/7/2005 (tg,). Version one of this document, with no redactions, has been filed UNDER SEAL. Modified on 1/27/2006 (tg,). (Entered: 11/30/2005)
12/08/2005	23	MOTION to Dismiss <i>Defendant Superintendent Janey</i> by DISTRICT OF COLUMBIA. (Attachments: # 1 Text of Proposed Order)(Miller, Eden) (Entered: 12/08/2005)
12/12/2005	24	Memorandum in opposition to re 18 <i>Defendants' Motion to Dismiss the Complaint</i> filed by DL. (Attachments: # 1 Exhibit 1# 2 Exhibit 2# 3 Exhibit 3# 4 Exhibit 4# 5 # 6 Exhibit 6# 7 Exhibit 7# 8 Exhibit 8# 9 Exhibit 9# 10 Exhibit 10# 11 Exhibit 11# 12 Exhibit 12)(Majeed, Sameena) (Entered: 12/12/2005)
12/16/2005	25	Memorandum in opposition to re 19 <i>Defendants' Motion for Dismissal of Plaintiffs' Claim of a Violation of Section 504 of the Rehabilitation Act</i> filed by DL. (Majeed, Sameena) (Entered: 12/16/2005)
12/21/2005	26	Memorandum in opposition to the defendants motion re 18 to dismiss filed by OUL, ELIZABETH UMANA-LAZO, DARWIN LAZO, DC, DORIS COCKRELL, FD, FREDERICK DAVY, MONICA DAVY, TF, ANGELIQUE MOORE, DL, TAMEKA FORD, JB, LEAH BLAND;(FILED UNDER SEAL). (rje) Modified on 12/22/2005 (rje,). (Entered: 12/22/2005)
12/22/2005	27	Consent MOTION for Extension of Time to <i>Oppose Defendants' Motion for Dismissal of Defendant District of Columbia Public Schools Superintendent Clifford Janey</i> by DL. (Majeed, Sameena) (Entered: 12/22/2005)
12/22/2005	28	Consent MOTION for Extension of Time to File Response/Reply as to 25 Memorandum in Opposition, 24 Memorandum in Opposition, by DISTRICT OF COLUMBIA, CLIFFORD B.

		JANEY. (Attachments: # 1 Text of Proposed Order)(Miller, Eden) (Entered: 12/22/2005)
01/03/2006	29	REPLY to opposition to motion re 18 <i>Version Two, Redacted</i> , filed by DISTRICT OF COLUMBIA, CLIFFORD B. JANEY. (Attachments: # 1 Exhibit 1, Blackman Order# 2 Exhibit 2, Griffin Declaration# 3 Exhibit 3, MOA# 4 Exhibit 4, Child Find Reference Guide# 5 Exhibit 5, Redacted (Johnson Declaration with Attachments))(Miller, Eden). Version One of this document, with no redactions, has been filed UNDER SEAL. Modified on 1/3/2006 (tg,). (Entered: 01/03/2006)
01/04/2006	30	Memorandum in opposition to re 23 <i>Defendants' Motion for Dismissal of Defendant District of Columbia Public Schools Superintendent Clifford Janey</i> filed by DL. (Majeed, Sameena) (Entered: 01/04/2006)
01/05/2006	31	REPLY to opposition to motion re 19 <i>Section 504 claim</i> filed by DISTRICT OF COLUMBIA, CLIFFORD B. JANEY. (Miller, Eden) (Entered: 01/05/2006)
01/13/2006	32	ORDER granting 27 Motion for Extension of Time to File Opposition, nunc pro tunc, granting 28 Motion for Extension of Time to File Reply, nunc pro tunc. Signed by Judge Royce C. Lamberth on 1/13/06. (lcrcl2,) (Entered: 01/13/2006)
01/17/2006	33	REPLY to opposition to motion re 23 <i>Dismissal of Defendant Superintendent Janey</i> filed by DISTRICT OF COLUMBIA, CLIFFORD B. JANEY. (Miller, Eden) (Entered: 01/17/2006)
01/17/2006	34	(STRICKEN PURSUANT TO ORDER FILED 8/25/2006).....NOTICE of Supplement to <i>Defendants' 12/29/05, Reply</i> by DISTRICT OF COLUMBIA, CLIFFORD B. JANEY re 29 Reply to opposition to 18 Motion, (Attachments: # 1 Exhibit 2A, Declaration of Karen Griffin with Attachments A to D)(Miller, Eden) Modified on 1/18/2006 (tg,). Modified on 8/28/2006 (rje,). (Entered: 01/17/2006)
01/20/2006	35	MOTION to Strike 33 Reply to opposition to Motion, 34 Notice (Other), Notice (Other) <i>Plaintiffs' Motion to Strike Defendants' Supplement to Their December 29, 2005 Reply to Plaintiffs' Opposition to Defendants' Motion for Dismissal of the Complaint for Failure to Exhaust Administrative Remedies</i> by OUL, ELIZABETH UMANA-LAZO, DARWIN LAZO, DC, DORIS COCKRELL, FD, FREDERICK DAVY, MONICA DAVY, TF, ANGELIQUE MOORE, DL, TAMEKA FORD, JB, LEAH BLAND. (Majeed, Sameena) (Entered: 01/20/2006)
01/20/2006	36	Consent MOTION for Leave to File a <i>Sur-Reply to Defendants' Motion for Dismissal of the Complaint for Failure to Exhaust Administrative Remedies</i> by OUL, ELIZABETH UMANA-LAZO, DARWIN LAZO, DC, DORIS COCKRELL, FD, FREDERICK DAVY, MONICA DAVY, TF, ANGELIQUE MOORE, DL, TAMEKA FORD, JB, LEAH BLAND. (Majeed, Sameena) (Entered: 01/20/2006)
01/31/2006	37	Memorandum in opposition to re 35 <i>Motion to Strike Supplement</i> filed by DISTRICT OF COLUMBIA, CLIFFORD B. JANEY. (Attachments: # 1 Text of Proposed Order)(Miller, Eden) (Entered: 01/31/2006)
02/08/2006	38	REPLY to opposition to motion re 35 MOTION to Strike 33 Reply to opposition to Motion, 34 Notice (Other), Notice (Other) <i>Plaintiffs' Motion to Strike Defendants' Supplement to Their December 29, 2005 Reply to Plaintiffs' Opposition to Defendants' Motion for Dismissal of Plaintiffs' Complaint for Failure to Exhaust Administrative Remedies</i> filed by OUL, ELIZABETH UMANA-LAZO, DARWIN LAZO, DC, DORIS COCKRELL, FD, FREDERICK DAVY, MONICA DAVY, TF, ANGELIQUE MOORE, DL, TAMEKA FORD, JB, LEAH BLAND. (Majeed, Sameena) (Entered: 02/08/2006)
03/28/2006	39	Joint MOTION for Extension of Time to <i>Complete Discovery</i> by OUL, ELIZABETH UMANA-LAZO, DARWIN LAZO, DC, DORIS COCKRELL, FD, FREDERICK DAVY, MONICA DAVY, TF, ANGELIQUE MOORE, DL, DISTRICT OF COLUMBIA, CLIFFORD B. JANEY, TAMEKA FORD, JB, LEAH BLAND. (Attachments: # 1 Text of Proposed Order # 2 Exhibit Scheduling Order)(Majeed, Sameena) (Entered: 03/28/2006)

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03/30/2006	40	ORDER granting Joint Motion 39 to Amend the Scheduling Order, directing that fact discovery shall close on 9/30/06 and expert discovery shall close 90 days thereafter. Signed by Judge Royce C. Lamberth on 3/30/06. (lcrcl2,) (Entered: 03/30/2006)
03/30/2006		Set/Reset Deadlines: Fact Discovery due by 9/30/2006; expert discovery shall close 90 days thereafter. (mon,) (Entered: 04/03/2006)
07/10/2006	41	MOTION to Compel <i>Defendants' Responses to Plaintiffs' First Set of Requests for Production of Documents</i> by DC, DORIS COCKRELL, FREDERICK DAVY, MONICA DAVY, LEAH BLAND. (Attachments: # 1 Memorandum of Law# 2 Exhibit Pls. Ex. 1# 3 Exhibit Pls. Ex. 2# 4 Exhibit Pls. Ex. 3# 5 Exhibit Pls. Ex. 4# 6 Exhibit Pls. Ex. 5# 7 Exhibit Pls. Ex. 6# 8 Exhibit Pls. Ex. 7# 9 Exhibit Pls. Ex. 8# 10 Exhibit Pls. Ex. 9)(Majeed, Sameena) (Entered: 07/10/2006)
07/14/2006	42	Consent MOTION for Extension of Time to File Response/Reply as to 41 MOTION to Compel <i>Defendants' Responses to Plaintiffs' First Set of Requests for Production of Documents</i> by DISTRICT OF COLUMBIA, CLIFFORD B. JANEY. (Attachments: # 1 Text of Proposed Order)(Miller, Eden) (Entered: 07/14/2006)
07/19/2006	43	ORDER granting 42 Motion for Extension of Time to File Response/Reply re 42 Consent MOTION for Extension of Time to File Response/Reply as to 41 MOTION to Compel <i>Defendants' Responses to Plaintiffs' First Set of Requests for Production of Documents</i> ; The time of defendants in which to respond to plaintiffs' motion to compel discovery filed July 10, 2006, is extended to and including July 31, 2006. Signed by Judge Royce C. Lamberth on 7/19/06. (lcrcl1,) (Entered: 07/19/2006)
07/25/2006		Set/Reset Deadlines: Responses due by 7/31/2006 (lin,) (Entered: 07/25/2006)
07/31/2006	44	Memorandum in opposition to re 41 MOTION to Compel <i>Defendants' Responses to Plaintiffs' First Set of Requests for Production of Documents</i> filed by DISTRICT OF COLUMBIA, CLIFFORD B. JANEY. (Attachments: # 1 Text of Proposed Order # 2 Exhibit A, Index# 3 Exhibit B, Letter# 4 Exhibit C, Chart# 5 Exhibit D, 2nd Chart# 6 Exhibit E, Amos Decl# 7 Exhibit F, 2nd Griffin Decl)(Miller, Eden) (Entered: 07/31/2006)
08/01/2006	45	MOTION to Compel <i>Discovery Production of Documents</i> by DISTRICT OF COLUMBIA, CLIFFORD B. JANEY. (Attachments: # 1 Text of Proposed Order # 2 Exhibit A, D Doc Request 110905# 3 Exhibit B, P Resp to D Doc Request 121205)(Miller, Eden) (Entered: 08/01/2006)
08/03/2006	46	MOTION for Leave to File <i>Plaintiffs' First Amended Complaint for Declaratory and Injunctive Relief</i> by OUL, ELIZABETH UMANA-LAZO, DARWIN LAZO, DC, DORIS COCKRELL, FD, FREDERICK DAVY, MONICA DAVY, TF, ANGELIQUE MOORE, DL, TAMEKA FORD, JB, LEAH BLAND. (Attachments: # 1 Memorandum of Law in Support of Plaintiffs' Motion for Leave to File their First Amended Complaint for Declaratory and Injunctive Relief# 2 Exhibit Pls' Exhibit 1- First Amended Complaint)(Majeed, Sameena) (Entered: 08/03/2006)
08/07/2006	47	Consent MOTION for Extension of Time to File Response/Reply to <i>Defendants' Memorandum of Points and Authorities in Opposition to Plaintiffs' Motion to Compel</i> by OUL, ELIZABETH UMANA-LAZO, DARWIN LAZO, DC, DORIS COCKRELL, FD, FREDERICK DAVY, MONICA DAVY, TF, ANGELIQUE MOORE, DL, TAMEKA FORD, JB, LEAH BLAND. (Majeed, Sameena) (Entered: 08/07/2006)
08/15/2006	48	Memorandum in opposition to re 45 MOTION to Compel <i>Discovery Production of Documents</i> filed by OUL, ELIZABETH UMANA-LAZO, DARWIN LAZO, DC, DORIS COCKRELL, FD, FREDERICK DAVY, MONICA DAVY, TF, ANGELIQUE MOORE, DL, TAMEKA FORD, JB, LEAH BLAND. (Attachments: # 1 Exhibit Pl. Ex. 1)(Majeed, Sameena) (Entered: 08/15/2006)
08/17/2006	49	Memorandum in opposition to re 46 MOTION for Leave to File <i>Plaintiffs' First Amended</i>

		Complaint for Declaratory and Injunctive Relief filed by DISTRICT OF COLUMBIA, CLIFFORD B. JANEY. (Attachments: # 1 Text of Proposed Order)(Miller, Eden) (Entered: 08/17/2006)
08/18/2006	50	REPLY to opposition to motion re 41 MOTION to Compel <i>Defendants' Responses to Plaintiffs' First Set of Requests for Production of Documents</i> filed by OUL, ELIZABETH UMANA-LAZO, DARWIN LAZO, DC, DORIS COCKRELL, FD, FREDERICK DAVY, MONICA DAVY, TF, ANGELIQUE MOORE, DL, TAMEKA FORD, JB, LEAH BLAND. (Attachments: # 1 Exhibit Pl. Ex. 10# 2 Exhibit Pl. Ex. 11)(Majeed, Sameena) (Entered: 08/18/2006)
08/23/2006	51	REPLY to opposition to motion re 45 MOTION to Compel <i>Discovery Production of Documents</i> filed by DISTRICT OF COLUMBIA, CLIFFORD B. JANEY. (Miller, Eden) (Entered: 08/23/2006)
08/25/2006	52	ORDER granting 46 Motion for Leave to File an Amended Complaint. Furthermore, the Court will construe the various pending motions to apply to the First Amended Complaint in separate Memorandum Opinions and Orders issued this date. Signed by Judge Royce C. Lamberth on 8/25/06. (lcrcl1,) (Entered: 08/25/2006)
08/25/2006	53	MEMORANDUM AND OPINION. Signed by Judge Royce C. Lamberth on 8/25/06. (lcrcl1,) (Entered: 08/25/2006)
08/25/2006	54	ORDER granting Defendants' Motion 18 to Dismiss. Plaintiffs' Motion 35 to Strike Defendants' Supplement to their Reply is GRANTED and Plaintiffs' Consent Motion 36 to File a Sur-reply is DENIED as MOOT. Signed by Judge Royce C. Lamberth on 8/25/06. (lcrcl1,) (Entered: 08/25/2006)
08/25/2006	55	MEMORANDUM AND OPINION. Signed by Judge Royce C. Lamberth on 8/25/06. (lcrcl1,) (Entered: 08/25/2006)
08/25/2006	56	ORDER denying defendants' Motion 19 to Dismiss Section 504 Claim and defendants' Motion 23 to Dismiss Defendant Superintendent Janey. Signed by Judge Royce C. Lamberth on 8/25/06. (lcrcl1,) (Entered: 08/25/2006)
08/25/2006	57	MEMORANDUM AND OPINION. Signed by Judge Royce C. Lamberth on 8/25/06. (lcrcl1,) (Entered: 08/25/2006)
08/25/2006	58	ORDER granting 5 Motion to Certify Class. Signed by Judge Royce C. Lamberth on 8/25/06. (lcrcl1,) (Entered: 08/25/2006)
08/25/2006	59	ORDER denying Plaintiffs' ripe motion 41 to compel discovery and defendants' ripe motion 45 to compel discovery, without prejudice to renewed motions filed within 30 days of this date, after the parties:?(1) Consider the impact of today's decisions on class certification and the motions to dismiss, and?(2) Meet and confer, in person, through counsel, and seek to resolve any remaining differences.. Signed by Judge Royce C. Lamberth on 8/25/06. (lcrcl1,) (Entered: 08/25/2006)
08/25/2006	61	AMENDED COMPLAINT against DISTRICT OF COLUMBIA, CLIFFORD B. JANEY filed by HW, TIMOTHY LANTRY, ARLETTE MANKEMI, KERIANNE PIESTER, TL, RONALD WISOR, XY, BRYAN YOUNG, TAMMIKA YOUNG, FD, FREDERICK DAVY, MONICA DAVY, TF, ANGELIQUE MOORE, DL, TAMEKA FORD, JB, LEAH BLAND. (tg,) (Entered: 09/12/2006)
09/11/2006	60	ANSWER to the 61 Amended Complaint by DISTRICT OF COLUMBIA, CLIFFORD B. JANEY , (Miller, Eden) Modified on 9/12/2006 (tg,). (Entered: 09/11/2006)
09/22/2006	62	Joint MOTION for Extension of Time to File <i>Renewed Motions to Compel Discovery Responses</i> by OUL, DC, DORIS COCKRELL, FD, FREDERICK DAVY, MONICA DAVY, HW, TIMOTHY LANTRY, ARLETTE MANKEMI, KERIANNE PIESTER, TL, RONALD WISOR, XY, BRYAN YOUNG, TAMMIKA YOUNG, TF, ANGELIQUE MOORE, DL,

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09/26/2006	63	ORDER granting 62 Motion for Extension of Time to File Renewed Motions to Compel Discovery Responses, and ordering that parties shall file such renewed motions or a Joint Status Report updating the Court on settlement of this case by October 25, 2006. Signed by Judge Royce C. Lamberth on 9/26/06. (lcrcl2,) (Entered: 09/26/2006)	
09/26/2006		Set/Reset Deadlines: Parties Renewed Motions or Joint Status Report due by 10/25/2006. (rje) (Entered: 09/26/2006)	
09/28/2006	64	Joint MOTION for Extension of Time to Complete Discovery <i>and Amend the Scheduling Order</i> by OUL, ELIZABETH UMANA-LAZO, DARWIN LAZO, DC, DORIS COCKRELL, FD, FREDERICK DAVY, MONICA DAVY, HW, TIMOTHY LANTRY, ARLETTE MANKEMI, KERIANNE PIESTER, TL, RONALD WISOR, XY, BRYAN YOUNG, TAMMIKA YOUNG, TF, ANGELIQUE MOORE, DL, DISTRICT OF COLUMBIA, CLIFFORD B. JANEY, TAMEKA FORD, JB, LEAH BLAND. (Majeed, Sameena) (Entered: 09/28/2006)	
10/24/2006	65	***** ENTERED IN ERROR*****ORDER granting 64 parties' Joint Motion to Amend the Scheduling Order for an Extension of Time to Complete Discovery; ORDERING that fact discovery shall close on December 30, 2006; and further ORDERING that expert discovery shall close on March 30, 2006. Signed by Judge Royce C. Lamberth on 10/24/06. (lcrcl2,) Modified on 10/26/2006 (lcrcl2,). (Entered: 10/24/2006)	
10/25/2006		Set/Reset Deadlines: Fact Discovery due by 12/30/2006. (rje) (Entered: 10/25/2006)	
10/25/2006	66	Joint MOTION for Extension of Time to <i>File Renewed Motions to Compel</i> by OUL, ELIZABETH UMANA-LAZO, DARWIN LAZO, DC, DORIS COCKRELL, FD, FREDERICK DAVY, MONICA DAVY, HW, TIMOTHY LANTRY, ARLETTE MANKEMI, KERIANNE PIESTER, TL, RONALD WISOR, XY, BRYAN YOUNG, TAMMIKA YOUNG, TF, ANGELIQUE MOORE, DL, DISTRICT OF COLUMBIA, CLIFFORD B. JANEY, TAMEKA FORD, JB, LEAH BLAND. (Majeed, Sameena) (Entered: 10/25/2006)	
10/26/2006	67	ORDER granting 64 parties' Joint Motion to Amend the Scheduling Order for an Extension of Time to Complete Discovery; ORDERING that fact discovery shall close on December 30, 2006; and further ORDERING that expert discovery shall close on March 30, 2007. Signed by Judge Royce C. Lamberth on 10/24/06. (lcrcl2,) (Entered: 10/26/2006)	
10/30/2006		Set/Reset Deadlines: Fact Discovery due by 12/30/2006. Expert Discovery due by 3/30/2007. (rje) (Entered: 10/30/2006)	
11/15/2006	68	ORDER granting 66 Motion for Extension of Time to file renewed motions to compel discovery responses until December 9, 2006. Signed by Judge Royce C. Lamberth on 11/15/2006. (lcrcl1,) (Entered: 11/15/2006)	
11/16/2006		Set/Reset Deadlines: Joint Status Report due by 12/9/2006. (rje) (Entered: 11/16/2006)	
12/07/2006	69	Joint MOTION for Extension of Time to <i>File Renewed Motions to Compel and the Parties' Joint Status Report</i> by OUL, ELIZABETH UMANA-LAZO, DARWIN LAZO, DC, DORIS COCKRELL, FD, FREDERICK DAVY, MONICA DAVY, HW, TIMOTHY LANTRY, ARLETTE MANKEMI, KERIANNE PIESTER, TL, RONALD WISOR, XY, BRYAN YOUNG, TAMMIKA YOUNG, TF, ANGELIQUE MOORE, DL, DISTRICT OF COLUMBIA, CLIFFORD B. JANEY, TAMEKA FORD, JB, LEAH BLAND. (Majeed, Sameena) (Entered: 12/07/2006)	
12/07/2006	70	JOINT STATUS REPORT by FD, FREDERICK DAVY, MONICA DAVY, HW, TIMOTHY LANTRY, ARLETTE MANKEMI, KERIANNE PIESTER, TL, RONALD WISOR, XY, BRYAN YOUNG, TAMMIKA YOUNG, TF, ANGELIQUE MOORE, DL, DISTRICT OF COLUMBIA, CLIFFORD B. JANEY, TAMEKA FORD, JB, LEAH BLAND. (Please see Document No. 69 for scanned image). (nmw,) (Entered: 12/08/2006)	

12/11/2006	71	ORDER granting 69 Motion for Extension of Time to File Renewed Motions to Compel Discovery Responses. The parties shall file such renewed motions or a Joint Status Report updating the Court on settlement of this case by January 30, 2007. Signed by Judge Royce C. Lamberth on 12/11/2006. (lcrcl1,) (Entered: 12/11/2006)
12/11/2006	72	Joint MOTION to Amend/Correct <i>Scheduling Order</i> by FD, FREDERICK DAVY, MONICA DAVY, HW, TIMOTHY LANTRY, ARLETTE MANKEMI, KERIANNE PIESTER, TL, RONALD WISOR, XY, BRYAN YOUNG, TAMMIKA YOUNG, TF, ANGELIQUE MOORE, DL, DISTRICT OF COLUMBIA, CLIFFORD B. JANEY, TAMEKA FORD, JB, LEAH BLAND. (Attachments: # 1 Text of Proposed Order)(Miller, Eden) (Entered: 12/11/2006)
12/11/2006	73	ORDER granting 72 Motion to Amend the Scheduling Order. Fact discovery shall close on March 30, 2007 and expert discovery shall close on July 2, 2007. Signed by Judge Royce C. Lamberth on 12/11/2006. (lcrcl1,) (Entered: 12/11/2006)
12/12/2006		Set/Reset Deadlines: Discovery due by 3/30/2007. Expert Discovery due by 7/2/2007. (rje) (Entered: 12/12/2006)
01/29/2007	74	Joint MOTION for Extension of Time to <i>File Renewed Motions to Compel Discovery Responses and the Parties' Joint Status Report</i> by OUL, ELIZABETH UMANA-LAZO, DARWIN LAZO, DC, DORIS COCKRELL, FD, FREDERICK DAVY, MONICA DAVY, HW, TIMOTHY LANTRY, ARLETTE MANKEMI, KERIANNE PIESTER, TL, RONALD WISOR, XY, BRYAN YOUNG, TAMMIKA YOUNG, TF, ANGELIQUE MOORE, DL, DISTRICT OF COLUMBIA, CLIFFORD B. JANEY, TAMEKA FORD, JB, LEAH BLAND. (Majeed, Sameena) (Entered: 01/29/2007)
01/29/2007	75	ORDER granting 74 Motion for Extension of Time to File Renewed Motions to Compel Discovery Responses. The parties shall file such motions or a Joint Status Report by March 31, 2007. Signed by Judge Royce C. Lamberth on 1/29/2007. (lcrcl1,) (Entered: 01/29/2007)
01/30/2007		Set/Reset Deadlines: Joint Motion due by 3/31/2007 or Joint Status Report due by 3/31/2007. (rje) (Entered: 01/30/2007)
03/29/2007	76	Joint MOTION for Extension of Time to Complete Discovery <i>and to Amend the Scheduling Order</i> by OUL, ELIZABETH UMANA-LAZO, DARWIN LAZO, DC, DORIS COCKRELL, FD, FREDERICK DAVY, MONICA DAVY, HW, TIMOTHY LANTRY, ARLETTE MANKEMI, KERIANNE PIESTER, TL, RONALD WISOR, XY, BRYAN YOUNG, TAMMIKA YOUNG, TF, ANGELIQUE MOORE, DL, DISTRICT OF COLUMBIA, CLIFFORD B. JANEY, TAMEKA FORD, JB, LEAH BLAND (Majeed, Sameena) (Entered: 03/29/2007)
03/29/2007	77	Joint MOTION for Extension of Time to File <i>Renewed Motions to Compel and Parties' Joint Status Report</i> by OUL, ELIZABETH UMANA-LAZO, DARWIN LAZO, DC, DORIS COCKRELL, FD, FREDERICK DAVY, MONICA DAVY, HW, TIMOTHY LANTRY, ARLETTE MANKEMI, KERIANNE PIESTER, TL, RONALD WISOR, XY, BRYAN YOUNG, TAMMIKA YOUNG, TF, ANGELIQUE MOORE, DL, DISTRICT OF COLUMBIA, CLIFFORD B. JANEY, TAMEKA FORD, JB, LEAH BLAND (Majeed, Sameena) (Entered: 03/29/2007)
04/23/2007	78	ORDER granting 77 the parties' Joint Motion to Extend the Time to File Renewed Motions to Compel Discovery Responses is GRANTED; and further ORDERING that parties shall file such renewed motions or a Joint Status Report updating the Court on settlement of this case by June 29, 2007. Signed by Judge Royce C. Lamberth on 4/23/07. (lcrcl2,) (Entered: 04/23/2007)
04/23/2007	79	ORDER GRANTING 76 Motion to Amend Scheduling Order, and ORDERING that fact discovery shall close on June 29, 2007; and further ORDERING that expert discovery shall close on October 1, 2007. Signed by Judge Royce C. Lamberth on 4/23/07. (lcrcl2,) (Entered: 04/23/2007)

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04/23/2007		Set/Reset Deadlines: Joint Status Report due by 6/29/2007. (rje) (Entered: 04/23/2007)
04/23/2007		Set/Reset Deadlines: Fact Discovery due by 6/29/2007. Expert Discovery due by 10/1/2007. (rje) (Entered: 04/23/2007)
06/29/2007	80	Joint MOTION to Amend/Correct <i>Scheduling Order, Motion to Extend Time to File Renewed Motions to Compel Discovery Responses, and Joint Status Report</i> by OUL, ELIZABETH UMANA-LAZO, DARWIN LAZO, DC, DORIS COCKRELL, FD, FREDERICK DAVY, MONICA DAVY, HW, TIMOTHY LANTRY, ARLETTE MANKEMI, KERIANNE PIESTER, TL, RONALD WISOR, XY, BRYAN YOUNG, TAMMIKA YOUNG, TF, ANGELIQUE MOORE, DL, DISTRICT OF COLUMBIA, CLIFFORD B. JANEY, TAMEKA FORD, JB, LEAH BLAND (Majeed, Sameena) (Entered: 06/29/2007)
07/05/2007	81	ORDER GRANTING 80 Motion to amend the scheduling order and to extend the time to file renewed motions to compel discovery responses, and ORDERING that: that a Scheduling Conference is scheduled for 9:30 a.m. on August 9, 2007; that fact discovery shall close on December 28, 2007, and that expert discovery shall close on March 28, 2008; and that the parties may have until the close of all discovery to file renewed motions to compel discovery responses. Signed by Judge Royce C. Lamberth on 7/5/07. (lcrcl2,) (Entered: 07/05/2007)
07/05/2007		Set Deadlines/Hearings: Fact Discovery due by 12/28/2007. Expert Discovery due by 3/28/2008. Scheduling Conference set for 8/9/2007 09:30 AM in Courtroom 22A before Judge Royce C. Lamberth. (rje) (Entered: 07/05/2007)
08/09/2007	82	SCHEDULING ORDER. Signed by Judge Royce C. Lamberth on 8/9/2007. (lcrcl1,) Additional attachment(s) added on 8/14/2007 (zhs,). (Entered: 08/09/2007)
08/09/2007		Minute Entry. Proceedings held before Judge Royce C. Lamberth : Scheduling Conference held on 8/9/2007. Order to issue. (Court Reporter Theresa Sorensen.) (lin,) (Entered: 08/10/2007)
08/14/2007		Set Scheduling Order Deadlines:(Fact Discovery due by 12/28/2007, Plaintiff's Expert Report due by 1/29/08, Defendant's Expert Report due by 2/28/08, Status Conference set for 3/10/08, Expert Discovery due by 3/28/08,Summary Judgment motions due by 5/2/2008), Response to Motion for Summary Judgment due by 6/2/2008,Reply to Motion for Summary Judgment due by 7/2/2008,Jury Trial set for 11/3/2008 at 09:30 AM,Pretrial Conference set for at 9/3/2008 04:30 PM,Status Conference set for 11/8/2007 at 09:30 AM in Courtroom 22A before Judge Royce C. Lamberth. (hs,) (Entered: 08/14/2007)
09/20/2007	83	NOTICE OF WITHDRAWAL OF APPEARANCE as to FD, FREDERICK DAVY, MONICA DAVY, HW, TIMOTHY LANTRY, ARLETTE MANKEMI, KERIANNE PIESTER, TL, RONALD WISOR, XY, BRYAN YOUNG, TAMMIKA YOUNG, TF, ANGELIQUE MOORE, DL, TAMEKA FORD, JB, LEAH BLAND. Attorney Sameena Shina Majeed terminated. (Majeed, Sameena) (Entered: 09/20/2007)
11/08/2007		Minute Entry. Proceedings held before Judge Royce C. Lamberth : Status Conference held on 11/8/2007. (Court Reporter Theresa Sorensen.) (rje) (Entered: 11/08/2007)
11/28/2007	84	Consent MOTION for Extension of Time to File Response/Reply to <i>Defendants' First Set of Interrogatories</i> by DL (Terris, Bruce) (Entered: 11/28/2007)
11/28/2007	85	MOTION to Substitute Party <i>Defendant</i> by DL (Attachments: # 1 Text of Proposed Order # 2 Exhibit Exhibit 1# 3 Exhibit Exhibit 2# 4 Exhibit Exhibit 3# 5 Exhibit Exhibit 4# 6 Exhibit Exhibit 5)(Terris, Bruce) (Entered: 11/28/2007)
12/05/2007	86	ORDER granting 84 Motion for Extension of Time to File Response/Reply. Signed by Judge Royce C. Lamberth on 12/05/2007. (lcrcl2,) (Entered: 12/05/2007)
12/06/2007		Set/Reset Deadlines: Plaintiff's Response due by 1/11/2008 (rje) (Entered: 12/06/2007)
12/11/2007	87	ORDER granting 85 Motion to Substitute Party.. Signed by Judge Royce C. Lamberth on

12/20/2007	88	Consent MOTION to Amend/Correct 82 Scheduling Order by DL (Attachments: # 1 Text of Proposed Order # 2 August 9, 2007 Scheduling Order)(Terris, Bruce) (Entered: 12/20/2007)
01/03/2008	89	ORDER granting 88 Motion to Amend/Correct Scheduling Order. Signed by Judge Royce C. Lamberth on 01/03/2008. (lcrc12,) (Entered: 01/03/2008)
01/04/2008		Set Deadlines/Hearings: Motion to Compel due by 1/31/2008. Reply to Motion due by 3/1/2008. Summary Judgment motions due by 5/2/2008. Oppositions due by 6/2/2008. Replies due by 6/2/2008. Trial set for 11/3/2008 at 09:30 AM in Courtroom 22A before Judge Royce C. Lamberth. (rje) (Entered: 01/04/2008)
01/31/2008	90	Consent MOTION for Extension of Time to <i>File Plaintiffs' Motion to Compel Discovery Responses</i> by DL (Attachments: # 1 Exhibit A, # 2 Exhibit B, # 3 Text of Proposed Order) (Terris, Bruce) (Entered: 01/31/2008)
02/04/2008	91	MOTION to Compel <i>Defendants' Responses to Plaintiffs' First, Second, and Third Sets of Requests for Production of Documents and Plaintiffs' First Set of Interrogatories</i> by DL (Attachments: # 1 Text of Proposed Order Proposed Order, # 2 Exhibit Plaintiffs' Exhibit A, # 3 Exhibit Plaintiffs' Exhibit B, # 4 Exhibit Plaintiffs' Exhibit C, # 5 Exhibit Plaintiffs' Exhibit D, # 6 Exhibit Plaintiffs' Exhibit E, # 7 Exhibit Plaintiffs' Exhibit F, # 8 Exhibit Plaintiffs' Exhibit G, # 9 Exhibit Plaintiffs' Exhibit H, # 10 Exhibit Plaintiffs' Exhibit I, # 11 Exhibit Plaintiffs' Exhibit J, # 12 Exhibit Plaintiffs' Exhibit K, # 13 Exhibit Plaintiffs' Exhibit L, # 14 Exhibit Plaintiffs' Exhibit M, # 15 Exhibit Plaintiffs' Exhibit N, # 16 Exhibit Plaintiffs' Exhibit O, # 17 Exhibit Plaintiffs' Exhibit P, # 18 Exhibit Plaintiffs' Exhibit Q, # 19 Exhibit Plaintiffs' Exhibit R)(Benfer, Emily) (Entered: 02/04/2008)
02/04/2008	92	ORDER granting 90 Motion for Extension of Time to File Plaintiffs' Motion to Compel Discovery Responses. Signed by Judge Royce C. Lamberth on 02/04/2008. (lcrc11,) (Entered: 02/04/2008)
02/05/2008		Set/Reset Deadlines: Plaintiff's Motions due by 2/5/2008. Defendant's Opposition due by 3/1/2008. (rje) (Entered: 02/05/2008)
02/15/2008	93	NOTICE OF WITHDRAWAL OF APPEARANCE as to DL. Attorney Emily Anne Benfer terminated. (Benfer, Emily) (Entered: 02/15/2008)
02/22/2008	94	MOTION for Extension of Time to <i>File Opposition</i> , MOTION for Extension of Time to Amend, MOTION for Extension of Time to Complete Discovery, MOTION for Extension of Time to Complete Mediation, MOTION for Extension of Time to File by DISTRICT OF COLUMBIA (Attachments: # 1 Text of Proposed Order)(Rezneck, Daniel) (Entered: 02/22/2008)
02/27/2008	95	MOTION to Compel <i>Discovery</i> by DISTRICT OF COLUMBIA, MICHELLE RHEE, DEBORAH GIST (Attachments: # 1 Text of Proposed Order, # 2 Exhibit A, D Doc Request 110905, # 3 Exhibit B, P Response to D Request)(Miller, Eden) (Entered: 02/27/2008)
03/03/2008	96	ORDER granting 94 Motion for Extension of Time to File Opposition to Motion to Compel. Signed by Judge Royce C. Lamberth on 03/03/2008. (lcrc11,) (Entered: 03/03/2008)
03/04/2008		Set/Reset Deadlines: Defendants' opposition due by 3/8/2008 (rje) (Entered: 03/04/2008)
03/10/2008	97	Memorandum in opposition to re 91 MOTION to Compel <i>Defendants' Responses to Plaintiffs' First, Second, and Third Sets of Requests for Production of Documents and Plaintiffs' First Set of Interrogatories</i> filed by DISTRICT OF COLUMBIA, MICHELLE RHEE, DEBORAH GIST. (Attachments: # 1 Text of Proposed Order, # 2 Exhibit A, Defendants' Indices, # 3 Exhibit B, Plaintiffs' General Objections, # 4 Exhibit C, Harris Declaration, # 5 Exhibit D, Kiesler Declaration, # 6 Exhibit E, Younger Declaration, # 7 Exhibit F, G. Johnson Deposition Excerpt, # 8 Exhibit G, Whitaker Deposition Excerpt, # 9 Exhibit H, Gayle Declaration, # 10 Exhibit I, Defendants' Response to Plaintiffs' Exhibit L, # 11 Exhibit J, Defendants' Initial

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 Disclosures, # [1](#) Exhibit K, [6](#) Declaration, # [3](#) Exhibit L, Washington Post Article re District Emails)(Miller, Eden) (Entered: 03/10/2008)

03/12/2008	98	Memorandum in opposition to re 95 MOTION to Compel <i>Discovery</i> filed by DL. (Attachments: # 1 Text of Proposed Order Denying Defendants' Motion to Compel, # 2 Exhibit 1 (Decl. of Margaret A. Kohn))(Terris, Bruce) (Entered: 03/12/2008)
03/18/2008	99	REPLY to opposition to motion re 95 MOTION to Compel <i>Discovery</i> filed by DISTRICT OF COLUMBIA, MICHELLE RHEE, DEBORAH GIST. (Miller, Eden) (Entered: 03/18/2008)
03/18/2008	100	Consent MOTION for Extension of Time to File Response/Reply as to 91 MOTION to Compel <i>Defendants' Responses to Plaintiffs' First, Second, and Third Sets of Requests for Production of Documents and Plaintiffs' First Set of Interrogatories</i> by DL (Attachments: # 1 Text of Proposed Order)(Terris, Bruce) (Entered: 03/18/2008)
03/25/2008	101	REPLY to opposition to motion re 91 MOTION to Compel <i>Defendants' Responses to Plaintiffs' First, Second, and Third Sets of Requests for Production of Documents and Plaintiffs' First Set of Interrogatories</i> filed by DL. (Attachments: # 1 Exhibit S (Comparison Table), # 2 Exhibit T (E-mail from Eden Miller), # 3 Exhibit U (Letter from Daniel A. Rezneck))(Terris, Bruce) (Entered: 03/25/2008)
04/07/2008		MINUTE ORDER granting nunc pro tunc 100 consent Motion for Extension of Time to File Reply. Plaintiff's reply brief due on or before March 25, 2008. Signed by Judge Royce C. Lamberth on 04/07/2008. (lcrcl2,) (Entered: 04/07/2008)
05/08/2008	102	NOTICE OF SUBSTITUTION OF COUNSEL by Jayme Kantor on behalf of DISTRICT OF COLUMBIA, MICHELLE RHEE, DEBORAH GIST Substituting for attorney Eden I. Miller (Kantor, Jayme) (Entered: 05/08/2008)
05/27/2008	103	Joint MOTION for Protective Order (<i>Amended</i>) by DISTRICT OF COLUMBIA (Attachments: # 1 Amended Protective Order, # 2 Exhibit A _ Protective Order)(Rezneck, Daniel) (Entered: 05/27/2008)
05/27/2008	104	Joint MOTION for Order by DISTRICT OF COLUMBIA (Attachments: # 1 Text of Proposed Order, # 2 Supplement Letter)(Rezneck, Daniel) (Entered: 05/27/2008)
06/02/2008	105	ORDER granting 103 Joint Motion for Amended Protective Order. Signed by Chief Judge Royce C. Lamberth on 06/02/2008. (lcrcl1,) (Entered: 06/02/2008)
06/02/2008	106	ORDER granting 104 Joint Consent Motion for Order to Produce Documents. Signed by Chief Judge Royce C. Lamberth on 06/02/2008. (lcrcl1,) (Entered: 06/02/2008)
06/27/2008	107	MEMORANDUM AND OPINION. Signed by Chief Judge Royce C. Lamberth on 06/27/08. (lcrcl2,) (Entered: 06/27/2008)
06/27/2008	108	ORDER granting in part and denying in part 91 Motion to Compel; denying 95 Motion to Compel. Signed by Chief Judge Royce C. Lamberth on 06/27/08. (lcrcl2,) (Entered: 06/27/2008)
06/27/2008		Set/Reset Deadlines: Defendants' responsive documents due by 7/27/2008. Defendants' Responses due by 8/5/2008. Plaintiffs' request for attorneys' fee and expenses due by 7/7/2008. Defendants' opposition to Plaintiff's request due by 7/17/2008. (rje) (Entered: 06/27/2008)
07/02/2008	109	Consent MOTION for Extension of Time to <i>File Plaintiffs' Request for Attorneys' Fees and Expenses</i> by DL (Attachments: # 1 Text of Proposed Order)(Terris, Bruce) (Entered: 07/02/2008)
07/08/2008		MINUTE ORDER granting 109 Motion for Extension of Time to File Plaintiffs' Request for Attorneys' Fees and Expenses. Plaintiffs' Request for Attorneys' Fees and Expenses is due on July 25, 2008. Defendants' opposition to Plaintiffs' Request for Attorneys' Fees and Expenses

		is due on August 13, 2008. Signed by Chief Judge Royce C. Lamberth on 07/08/2008. (lcrcl2,) (Entered: 07/08/2008)
07/14/2008		Set/Reset Deadlines: Plaintiffs' request due by 7/25/2008. Defendants' Opposition due by 8/13/2008. (rje) (Entered: 07/14/2008)
07/25/2008	110	MOTION for Attorney Fees <i>and Out-of-Pocket Expenses for Plaintiffs' Motion to Compel Discovery</i> by DL (Attachments: # 1 Text of Proposed Order, # 2 Exhibit Plaintiffs' Exhibit 1, # 3 Exhibit Plaintiffs' Exhibit 2, # 4 Exhibit Plaintiffs' Exhibit 3, # 5 Exhibit Plaintiffs' Exhibit 4, # 6 Exhibit Plaintiffs' Exhibit 5, # 7 Exhibit Plaintiffs' Exhibit 6, # 8 Exhibit Plaintiffs' Exhibit 7, # 9 Exhibit Plaintiffs' Exhibit 8, # 10 Exhibit Plaintiffs' Exhibit 9, # 11 Exhibit Plaintiffs' Exhibit 10, # 12 Exhibit Plaintiffs' Exhibit 11)(Terris, Bruce) (Entered: 07/25/2008)
07/25/2008	111	Unopposed MOTION clarification of June 27, 2008 Order by DISTRICT OF COLUMBIA (Attachments: # 1 Text of Proposed Order)(Kantor, Jayme) (Entered: 07/25/2008)
07/25/2008	112	MOTION for Partial Reconsideration, MOTION for Order Barring Plaintiffs' Disclosure of Non-Responsive Material for 45 Days by DISTRICT OF COLUMBIA (tg,) (See Docket Entry number 111 to view document) (Entered: 07/28/2008)
07/31/2008	113	Consent MOTION for Extension of Time to <i>Comply with Court Order of June 27, 2008</i> by DISTRICT OF COLUMBIA (Attachments: # 1 Text of Proposed Order)(Kantor, Jayme) (Entered: 07/31/2008)
07/31/2008	114	ORDER granting 111 Motion for Clarification of the Court's June 27, 2008 Order. Signed by Chief Judge Royce C. Lamberth on 07/31/08. (lcrcl2,) (Entered: 07/31/2008)
07/31/2008	115	Joint MOTION to Amend/Correct <i>Scheduling Order (Second)</i> by DL (Attachments: # 1 Text of Proposed Order)(Terris, Bruce) (Entered: 07/31/2008)
08/06/2008		MINUTE ORDER granting 113 Motion for Extension of Time. All deadlines in this Court's June 27, 2008 Order are extended until August 15, 2008. Signed by Chief Judge Royce C. Lamberth on 08/06/2008. (lcrcl2,) (Entered: 08/06/2008)
08/06/2008	116	ORDER granting 115 Motion to Amend/Correct Scheduling Order. Signed by Chief Judge Royce C. Lamberth on 08/06/2008. (lcrcl2,) (Entered: 08/06/2008)
08/07/2008		Set/Reset Deadlines: All deadlines in this Courts' 06/27/2008 Order are extended until 8/15/2008. (rje) (Entered: 08/07/2008)
08/07/2008		Set/Reset Deadlines: Close of Fact Discovery due by 12/15/2008. Close of Expert Discovery due by 3/16/2009. Plaintiff Rule 26a2 due by 1/26/2009. Defendant Rule 26a2 due by 3/5/2009. Summary Judgment motions due by 4/20/2009. Oppositions due by 5/20/2009. Replies due by 6/20/2009. (rje) (Entered: 08/07/2008)
08/11/2008	117	Consent MOTION for Extension of Time to File Response/Reply to <i>Plaintiffs' Motion for Fees and Costs</i> by DISTRICT OF COLUMBIA (Utiger, Robert) (Entered: 08/11/2008)
08/11/2008	118	Consent MOTION for Extension of Time to <i>Produce a Small Subset of Documents and Certain Certifications Until September 12, 2008</i> by DISTRICT OF COLUMBIA, CLIFFORD B. JANEY, MICHELLE RHEE, DEBORAH GIST (Attachments: # 1 Text of Proposed Order) (Kaplan, Samuel) (Entered: 08/11/2008)
08/12/2008		MINUTE ORDER granting 117 Motion for Extension of Time to File Response to Plaintiffs' Motion for Fees and Costs. Defendants shall have up to and including August 20, 2008 in which to file an opposition. Signed by Chief Judge Royce C. Lamberth on 08/12/2008. (lcrcl2,) (Entered: 08/12/2008)
08/12/2008	119	ORDER granting 118 Motion for Extension of Time to Produce a Small Subset of Documents and Certain Certifications Until September 12, 2008. Signed by Chief Judge Royce C. Lamberth on 08/12/2008. (lcrcl2,) (Entered: 08/12/2008)

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08/13/2008		ENTERED IN ERROR... MOTION for Attorney Fees <i>and Out-of-Pocket Expenses for Plaintiffs' Motion to Compel Discovery, Plaintiffs' Exhibit 5 (Corrected)</i> by DL (Attachments: # 1 Exhibit 5 (Corrected))(Terris, Bruce) Modified on 8/14/2008 (tg,). (Entered: 08/13/2008)
08/13/2008		Set/Reset Deadlines: Defendants' Opposition due by 8/20/2008. (rje) (Entered: 08/13/2008)
08/14/2008		NOTICE OF CORRECTED DOCKET ENTRY: re 120 MOTION for Attorney Fees <i>and Out-of-Pocket Expenses for Plaintiffs' Motion to Compel Discovery, Plaintiffs' Exhibit 5 (Corrected)</i> was entered in error and counsel was instructed to refile said pleading using the proper ECF event to file an Errata. (tg,) (Entered: 08/14/2008)
08/14/2008	121	ERRATA - <i>Correction to Plaintiffs' Exhibit 5</i> by DL 110 MOTION for Attorney Fees <i>and Out-of-Pocket Expenses for Plaintiffs' Motion to Compel Discovery</i> filed by DL. (Attachments: # 1 Corrected Plaintiffs' Exhibit 5)(Terris, Bruce) (Entered: 08/14/2008)
08/15/2008	122	Consent MOTION for Extension of Time to <i>Comply with June 27, 2008 Court Order</i> by DISTRICT OF COLUMBIA (Attachments: # 1 Text of Proposed Order)(Kantor, Jayme) (Entered: 08/15/2008)
08/15/2008	123	Consent MOTION for Extension of Time to <i>TO EXTEND UNTIL AUGUST 22, 2008, THE TIME TO SEARCH AND PRODUCE ALL BUT A SUBSET OF RESPONSIVE E-MAILS</i> by DISTRICT OF COLUMBIA (Attachments: # 1 Text of Proposed Order)(Kantor, Jayme) (Entered: 08/15/2008)
08/15/2008	124	ORDER granting 122 Motion for Extension of Time to Comply with Court's Order; granting 123 Motion TO EXTEND UNTIL AUGUST 22, 2008, THE TIME TO SEARCH AND PRODUCE ALL BUT A SUBSET OF RESPONSIVE E-MAILS. Signed by Chief Judge Royce C. Lamberth on 08/15/2008. (lcrcl2,) (Entered: 08/15/2008)
08/19/2008	125	NOTICE of Appearance by Alexander R. Karam on behalf of all plaintiffs (Karam, Alexander) (Entered: 08/19/2008)
08/20/2008	126	Memorandum in opposition to re 110 MOTION for Attorney Fees <i>and Out-of-Pocket Expenses for Plaintiffs' Motion to Compel Discovery</i> filed by DISTRICT OF COLUMBIA. (Attachments: # 1 Exhibit A)(Utiger, Robert) (Entered: 08/20/2008)
08/22/2008	127	Consent MOTION for Extension of Time to <i>Comply with the Court's June 27, 2008 Order</i> by DISTRICT OF COLUMBIA (Attachments: # 1 Text of Proposed Order)(Kantor, Jayme) (Entered: 08/22/2008)
08/26/2008	128	ORDER granting 127 Motion for Extension of Time to Comply with the Court's June 27, 2008 Order. Signed by Chief Judge Royce C. Lamberth on 8/26/08. (lcrcl2,) (Entered: 08/26/2008)
08/28/2008	129	Consent MOTION for Extension of Time to File Response/Reply as to 110 MOTION for Attorney Fees <i>and Out-of-Pocket Expenses for Plaintiffs' Motion to Compel Discovery</i> by DL (Attachments: # 1 Text of Proposed Order)(Karam, Alexander) (Entered: 08/28/2008)
09/04/2008	130	ORDER granting 129 Motion for Extension of Time to File Reply re 110 MOTION for Attorney Fees <i>and Out-of-Pocket Expenses for Plaintiffs' Motion to Compel Discovery</i> . Reply due by 9/16/2008. Signed by Chief Judge Royce C. Lamberth on 9/4/08. (lcrcl2,) (Entered: 09/04/2008)
09/05/2008		Set/Reset Deadlines: Plaintiffs' Reply due by 9/16/2008. (rje) (Entered: 09/05/2008)
09/11/2008	131	Consent MOTION for Extension of Time to <i>search, review and produce emails</i> by DISTRICT OF COLUMBIA (Attachments: # 1 Text of Proposed Order To extend time)(Rezneck, Daniel) (Entered: 09/11/2008)
09/12/2008	132	Consent MOTION for Leave to File Excess Pages <i>for Reply Memorandum</i> by DL (Attachments: # 1 Text of Proposed Order)(Karam, Alexander) (Entered: 09/12/2008)

		NOTICE of Filing of Discovery Certifications in Compliance with Court Order at Docket # 108 by DISTRICT OF COLUMBIA (Attachments: # 1 certifications of document productions)(Kantor, Jayme) (Entered: 09/12/2008)
09/15/2008	134	ORDER granting 131 Motion for Extension of Time for completing the review and production or identification on a privilege log of all remaining e-mails to and including October 14, 2008. Signed by Chief Judge Royce C. Lamberth on 9/15/08. (lcrcl2,) (Entered: 09/15/2008)
09/16/2008		Set/Reset Deadlines: Defendants' completing the review and production or identification on a privilege log of all remaining e-mails due by 10/14/2008. (rje,) (Entered: 09/16/2008)
09/16/2008	135	REPLY to opposition to motion re 110 MOTION for Attorney Fees <i>and Out-of-Pocket Expenses for Plaintiffs' Motion to Compel Discovery</i> filed by DL. (Attachments: # 1 Text of Proposed Order - Updated, # 2 Exhibit 12, # 3 Exhibit 13, # 4 Exhibit 14, # 5 Exhibit 15, # 6 Exhibit 16, # 7 Exhibit 17, # 8 Exhibit 18, # 9 Exhibit 19, # 10 Exhibit 20, # 11 Exhibit 21, # 12 Exhibit 22, # 13 Exhibit 23, # 14 Exhibit 24, # 15 Exhibit 25, # 16 Exhibit 26, # 17 Exhibit 27)(Karam, Alexander) (Entered: 09/16/2008)
10/15/2008	136	NOTICE of Filing of Certifications in Compliance with Court Order of June 27, 2008 by DISTRICT OF COLUMBIA (Attachments: # 1 Declaration Certification of Massengale, # 2 Declaration Certification of Mancini)(Kantor, Jayme) (Entered: 10/15/2008)
12/09/2008	137	Joint MOTION to Amend/Correct 116 Order on Motion to Amend/Correct <i>Scheduling Order</i> by DL (Attachments: # 1 Text of Proposed Order)(Karam, Alexander) (Entered: 12/09/2008)
12/17/2008	138	ORDER granting 137 Motion to Amend/Correct. Signed by Chief Judge Royce C. Lamberth on 12/16/08. (lcrcl2,) (Entered: 12/17/2008)
12/22/2008		Set/Reset Deadlines: Close of Fact Discovery due by 3/16/2009. Plaintiff Rule 26a2 due by 4/27/2009. Defendant Rule 26a2 due by 6/8/2009. Close of Expert Discovery due by 8/7/2009. Summary Judgment motions due by 9/7/2009. Oppositions due by 10/7/2009. (rje) (Entered: 12/22/2008)
03/11/2009	139	MEMORANDUM OPINION. Signed by Chief Judge Royce C. Lamberth on 3/11/2009. (lcrcl1,) (Entered: 03/11/2009)
03/11/2009	140	ORDER granting in part and denying in part 110 Motion for Attorney Fees; granting 132 Motion for Leave to File Excess Pages. Signed by Chief Judge Royce C. Lamberth on 3/11/2009. (lcrcl1,) (Entered: 03/11/2009)
04/21/2009	141	NOTICE of Appearance by Sarah Ann Sulkowski on behalf of DISTRICT OF COLUMBIA (Sulkowski, Sarah) (Entered: 04/21/2009)
04/21/2009	142	NOTICE OF WITHDRAWAL OF APPEARANCE as to DISTRICT OF COLUMBIA. Attorney Jayme Kantor terminated. (Sulkowski, Sarah) (Entered: 04/21/2009)
04/23/2009	143	Joint MOTION to Amend/Correct 138 Order on Motion to Amend/Correct by DL (Attachments: # 1 Text of Proposed Order)(Karam, Alexander) (Entered: 04/23/2009)
04/28/2009	144	ORDER granting 143 Motion to Amend/Correct. Signed by Chief Judge Royce C. Lamberth on 4/27/09. (lcrcl2,) (Entered: 04/28/2009)
04/28/2009		Set/Reset Deadlines: Expert Discovery due by 8/21/2009. Summary Judgment motions due by 9/21/2009. Opposition to Motion for Summary Judgment due by 10/21/2009. Reply to Motion for Summary Judgment due by 11/23/2009. (rje) (Entered: 04/28/2009)
05/15/2009	145	MOTION for Extension of Time to <i>Serve Expert Reports</i> by DISTRICT OF COLUMBIA (Sulkowski, Sarah) (Entered: 05/15/2009)
05/19/2009	146	Memorandum in opposition to re 145 MOTION for Extension of Time to <i>Serve Expert Reports</i> filed by DL. (Attachments: # 1 Text of Proposed Order)(Karam, Alexander) (Entered: 05/19/2009)

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05/26/2009	147	REPLY to opposition to motion re 145 MOTION for Extension of Time to <i>Serve Expert Reports</i> filed by DISTRICT OF COLUMBIA. (Attachments: # 1 Exhibit A: Supplemental Interrogatory Response)(Sulkowski, Sarah) (Entered: 05/26/2009)
05/29/2009	148	ORDER granting 145 Motion for Extension of Time to File Expert Reports. Signed by Chief Judge Royce C. Lamberth on 5/29/09. (lcrl2,) (Entered: 05/29/2009)
06/02/2009		Set/Reset Deadlines: Defendant's Expert Report due by 8/21/2009. Plaintiff's Expert Rebuttal Report due 9/21/2009. Expert Discovery due by 10/21/2009. Summary Judgment motions due by 11/20/2009. Oppositions to Motion for Summary Judgment due by 12/21/2009. Replies to Motion for Summary Judgment due by 1/20/2010. (rje) (Entered: 06/02/2009)
08/20/2009	149	Consent MOTION for Extension of Time to <i>Serve Expert Reports</i> by DISTRICT OF COLUMBIA (Sulkowski, Sarah) (Entered: 08/20/2009)
08/20/2009	150	ORDER granting 149 Motion for Extension of Time. Signed by Chief Judge Royce C. Lamberth on 8/20/09. (lcrl2,) (Entered: 08/20/2009)
08/21/2009		Set/Reset Deadlines: Defendant Rule 26a2 due by 9/14/2009. Plaintiff Expert Rebuttal due by 10/14/2009. Expert Discovery due by 11/13/2009. Summary Judgment motions due by 12/14/2009. Oppositions to Motion for Summary Judgment due by 1/13/2010. Replies to Motion for Summary Judgment due by 2/12/2010. (rje) (Entered: 08/21/2009)
08/24/2009	151	MOTION for Protective Order by DISTRICT OF COLUMBIA (Attachments: # 1 Exhibit A, Deposition Notice)(Sulkowski, Sarah) (Entered: 08/24/2009)
08/26/2009	152	Memorandum in opposition to re 151 MOTION for Protective Order filed by DL. (Attachments: # 1 Text of Proposed Order, # 2 Exhibit 1, # 3 Exhibit 2, # 4 Exhibit 3, # 5 Exhibit 4, # 6 Exhibit 5)(Karam, Alexander) (Entered: 08/26/2009)
08/26/2009	153	MOTION to Compel <i>Deposition of Defendants' Expert Prior to Deadline for Plaintiffs' Expert Rebuttal Reports</i> by DL (Attachments: # 1 Text of Proposed Order, # 2 Exhibit 1, # 3 Exhibit 2, # 4 Exhibit 3, # 5 Exhibit 4, # 6 Exhibit 5)(Karam, Alexander) (Entered: 08/26/2009)
09/02/2009	154	REPLY to opposition to motion re 151 MOTION for Protective Order filed by DISTRICT OF COLUMBIA. (Sulkowski, Sarah) (Entered: 09/02/2009)
09/02/2009	155	Memorandum in opposition to re 153 MOTION to Compel <i>Deposition of Defendants' Expert Prior to Deadline for Plaintiffs' Expert Rebuttal Reports</i> filed by DISTRICT OF COLUMBIA. (Sulkowski, Sarah) (Entered: 09/02/2009)
09/02/2009	156	ENTERED IN ERROR.....Memorandum in opposition to re 153 MOTION to Compel <i>Deposition of Defendants' Expert Prior to Deadline for Plaintiffs' Expert Rebuttal Reports (Proposed Order)</i> filed by DISTRICT OF COLUMBIA. (Sulkowski, Sarah) Modified on 9/3/2009 (rdj). (Entered: 09/02/2009)
09/02/2009	157	ENTERED IN ERROR.....Memorandum in opposition to re 153 MOTION to Compel <i>Deposition of Defendants' Expert Prior to Deadline for Plaintiffs' Expert Rebuttal Reports (Corrected Proposed Order)</i> filed by DISTRICT OF COLUMBIA. (Sulkowski, Sarah) Modified on 9/3/2009 (rdj). (Entered: 09/02/2009)
09/03/2009		NOTICE OF CORRECTED DOCKET ENTRY: re 156 Memorandum in Opposition, 157 Memorandum in Opposition, was entered in error and counsel was instructed to refile said pleading using the correct event. (rdj) (Entered: 09/03/2009)
09/03/2009	158	NOTICE of Proposed Order by DISTRICT OF COLUMBIA re 155 Memorandum in Opposition (Sulkowski, Sarah) (Entered: 09/03/2009)
09/08/2009	159	REPLY to opposition to motion re 153 MOTION to Compel <i>Deposition of Defendants' Expert Prior to Deadline for Plaintiffs' Expert Rebuttal Reports</i> filed by DL. (Karam, Alexander) (Entered: 09/08/2009)

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09/14/2009	160	Consent MOTION to Amend/Correct <i>Scheduling Order</i> by DL (Attachments: # 1 Text of Proposed Order)(Karam, Alexander) (Entered: 09/14/2009)
09/17/2009	161	MOTION for Leave to File <i>Supplemental Brief in Support of Plaintiffs' Motion to Compel Deposition of Defendants' Expert Prior to Deadline for Plaintiffs' Expert Rebuttal Reports</i> by DL (Attachments: # 1 Text of Proposed Order, # 2 Exhibit 1 (Supplemental Brief))(Karam, Alexander) (Entered: 09/17/2009)
09/28/2009	162	Memorandum in opposition to re 161 MOTION for Leave to File <i>Supplemental Brief in Support of Plaintiffs' Motion to Compel Deposition of Defendants' Expert Prior to Deadline for Plaintiffs' Expert Rebuttal Reports</i> filed by DISTRICT OF COLUMBIA. (Sulkowski, Sarah) (Entered: 09/28/2009)
10/02/2009	163	REPLY to opposition to motion re 161 MOTION for Leave to File <i>Supplemental Brief in Support of Plaintiffs' Motion to Compel Deposition of Defendants' Expert Prior to Deadline for Plaintiffs' Expert Rebuttal Reports</i> filed by DL. (Karam, Alexander) (Entered: 10/02/2009)
10/09/2009	164	NOTICE by DL re 160 Consent MOTION to Amend/Correct <i>Scheduling Order</i> (Karam, Alexander) (Entered: 10/09/2009)
10/20/2009	165	Consent MOTION to Stay <i>Deadlines</i> by DISTRICT OF COLUMBIA (Sulkowski, Sarah) (Entered: 10/20/2009)
10/29/2009	166	ORDER denying plaintiffs' Motion 161 for Leave to File a Supplemental Brief. Signed by Chief Judge Royce C. Lamberth on 10/29/2009. (lcrl2,) (Entered: 10/29/2009)
10/29/2009	167	ORDER denying defendants' Motion 151 for Protective Order and granting plaintiffs' Motion 153 to Compel. Signed by Chief Judge Royce C. Lamberth on 10/29/2009. (lcrl2,) (Entered: 10/29/2009)
10/29/2009	168	ORDER denying as moot plaintiffs' Motion 160 to Amend the Scheduling Order. Signed by Chief Judge Royce C. Lamberth on 10/29/2009. (lcrl2,) (Entered: 10/29/2009)
11/02/2009	169	ORDER denying defendants' Consent Motion 165 to Stay Deadlines as moot. Signed by Chief Judge Royce C. Lamberth on 11/2/2009. (lcrl2,) (Entered: 11/02/2009)
12/17/2009	170	Joint MOTION to Amend/Correct to <i>Set New Pretrial Deadlines and Plaintiffs' Opposed Motion to Set Pretrial Conference and Trial Dates</i> by DL (Attachments: # 1 Text of Proposed Order)(Karam, Alexander) (Entered: 12/17/2009)
12/22/2009	171	ORDER granting the parties' Joint Motion 170 to Set New Pretrial Deadlines and denying plaintiffs' Motion to Set Pretrial and Trial Dates. The following schedule shall apply to this matter: Expert Discovery is to close by February 4, 2010; Summary Judgment Motions are due by March 8, 2010; Oppositions to Summary Judgment are due by April 5, 2010; Replies to Summary Judgment Motions are due by April 19, 2010. Signed by Chief Judge Royce C. Lamberth on 12/22/2009. (lcrl2) (Entered: 12/22/2009)
12/28/2009		Set/Reset Deadlines: Expert Discovery due by 2/4/2010. Summary Judgment motions due by 3/8/2010. Oppositions to Motion for Summary Judgment due by 4/5/2010. Replies to Motion for Summary Judgment due by 4/19/2010. (rje) (Entered: 12/28/2009)
01/11/2010	172	MOTION for Mediation : <i>Plaintiffs' Opposed Motion for an Order Appointing a Magistrate Judge as Mediator and Compelling the Parties to Participate in Mediation</i> by DL (Attachments: # 1 Text of Proposed Order, # 2 Exhibit A (Freund Report), # 3 Exhibit B (Dunst Report Excerpt), # 4 Exhibit C (Freund Dep Excerpt))(Karam, Alexander) (Entered: 01/11/2010)
01/26/2010	173	Memorandum in opposition to re 172 MOTION for Mediation : <i>Plaintiffs' Opposed Motion for an Order Appointing a Magistrate Judge as Mediator and Compelling the Parties to Participate in Mediation</i> filed by DISTRICT OF COLUMBIA. (Attachments: # 1 Exhibit A, # 2 Exhibit B, # 3 Exhibit C, # 4 Exhibit D, # 5 Exhibit E, # 6 Exhibit F)(Sulkowski, Sarah) (Entered: 01/26/2010)

02/04/2010	174	REPLY to opposition to motion re 172 MOTION for Mediation : <i>Plaintiffs' Opposed Motion for an Order Appointing a Magistrate Judge as Mediator and Compelling the Parties to Participate in Mediation</i> filed by DL. (Attachments: # 1 Exhibit D, # 2 Exhibit E, # 3 Exhibit F)(Karam, Alexander) (Entered: 02/04/2010)
02/23/2010	175	Consent MOTION for Extension of Time to File <i>Summary Judgment Motions</i> by DISTRICT OF COLUMBIA (Sulkowski, Sarah) (Entered: 02/23/2010)
03/05/2010	176	ORDER granting defendants' Consent Motion 175 to Extend Time to File Summary Judgment Motions. Signed by Chief Judge Royce C. Lamberth on 3/5/2010. (lcrcl2,) (Entered: 03/05/2010)
03/09/2010		Set/Reset Deadlines: Summary Judgment motions due by 3/22/2010. Response to Motion for Summary Judgment due by 4/19/2010. Reply to Motion for Summary Judgment due by 5/3/2010. (rje) Modified on 3/11/2010 (zrje,). (Entered: 03/09/2010)
03/22/2010	177	First MOTION for Summary Judgment by DISTRICT OF COLUMBIA (Sulkowski, Sarah) (Entered: 03/22/2010)
03/22/2010	178	MOTION for Partial Summary Judgment <i>on Liability</i> by DL (Attachments: # 1 Text of Proposed Order, # 2 Statement of Facts, # 3 Exhibit 1, # 4 Exhibit 2, # 5 Exhibit 3, # 6 Exhibit 4, # 7 Exhibit 5, # 8 Exhibit 6, # 9 Exhibit 7, # 10 Exhibit 8, # 11 Exhibit 9, # 12 Exhibit 10, # 13 Exhibit 11, # 14 Exhibit 12, # 15 Exhibit 13, # 16 Exhibit 14, # 17 Exhibit 15, # 18 Exhibit 16, # 19 Exhibit 17, # 20 Exhibit 18, # 21 Exhibit 19, # 22 Exhibit 20, # 23 Exhibit 21, # 24 Exhibit 22, # 25 Exhibit 23, # 26 Exhibit 24, # 27 Exhibit 25, # 28 Exhibit 26, # 29 Exhibit 27, # 30 Exhibit 28, # 31 Exhibit 29, # 32 Exhibit 30, # 33 Exhibit 31, # 34 Exhibit 32, # 35 Exhibit 33, # 36 Exhibit 34, # 37 Exhibit 35, # 38 Exhibit 36, # 39 Exhibit 37, # 40 Exhibit 38, # 41 Exhibit 39, # 42 Exhibit 40, # 43 Exhibit 41, # 44 Exhibit 42, # 45 Exhibit 43, # 46 Exhibit 44)(Karam, Alexander) (Entered: 03/22/2010)
04/19/2010	179	Memorandum in opposition to re 177 First MOTION for Summary Judgment filed by DL. (Attachments: # 1 Text of Proposed Order, # 2 Response to Statement of Facts)(Karam, Alexander) (Entered: 04/19/2010)
04/19/2010	180	Memorandum in opposition to re 178 MOTION for Partial Summary Judgment <i>on Liability</i> filed by DISTRICT OF COLUMBIA. (Attachments: # 1 Exhibit A, # 2 Exhibit B)(Sulkowski, Sarah) (Entered: 04/19/2010)
04/19/2010	181	MOTION to Strike by DISTRICT OF COLUMBIA (Attachments: # 1 Exhibit A, # 2 Exhibit B, # 3 Exhibit C, # 4 Exhibit D)(Sulkowski, Sarah) (Entered: 04/19/2010)
04/27/2010	182	Consent MOTION to Amend/Correct 176 Order on Motion for Extension of Time to File <i>and for Additional Time to Oppose Defendants' Motion to Strike</i> by DL (Attachments: # 1 Text of Proposed Order)(Karam, Alexander) (Entered: 04/27/2010)
05/05/2010		MINUTE ORDER. It is hereby ORDERED that Plaintiffs' Consent Motion to Amend the Scheduling Order and for Additional Time to Oppose Defendants' Motion to Strike is GRANTED; and it is further ORDERED that the following schedule shall apply to this matter: Replies to Summary Judgment Motions: May 19, 2010 Opposition to Defendants' Motion to Strike: May 19, 2010. Signed by Chief Judge Royce C. Lamberth on May 5, 2010. (lcrcl4) (Entered: 05/05/2010)
05/06/2010		Set/Reset Deadlines: Opposition due by 5/19/2010. (rje,) (Entered: 05/06/2010)
05/19/2010	183	REPLY to opposition to motion re 178 MOTION for Partial Summary Judgment <i>on Liability</i> filed by DL. (Attachments: # 1 Statement of Facts : Plaintiffs' Reply to Defendants' Statement of Disputed Facts, # 2 Exhibit 45, # 3 Exhibit 46, # 4 Exhibit 47, # 5 Exhibit 48, # 6 Exhibit 49, # 7 Exhibit 50)(Karam, Alexander) (Entered: 05/19/2010)
05/19/2010	184	Memorandum in opposition to re 181 MOTION to Strike filed by DL. (Attachments: # 1 Text of Proposed Order, # 2 Exhibit A, # 3 Exhibit B, # 4 Exhibit C, # 5 Exhibit D, # 6 Exhibit E, #

		Exhibit F, # 8 Exhibit G, # 9 Exhibit H, # 10 Exhibit I)(Karam, Alexander) (Entered: 05/19/2010)
05/19/2010	185	REPLY to opposition to motion re 177 First MOTION for Summary Judgment filed by DISTRICT OF COLUMBIA. (Sulkowski, Sarah) (Entered: 05/19/2010)
05/20/2010	186	NOTICE OF FILING REDACTED DOCUMENT to 184 Memorandum in Opposition, 178 MOTION for Partial Summary Judgment <i>on Liability</i> by DL (The original PDF Document contained privacy information and was restricted pursuant to the E-Government Act.) (Karam, Alexander) (Entered: 05/20/2010)
05/20/2010	187	SEALED Exhibit 11 to #178 filed by DL. (This document is SEALED and only available to authorized persons.)(rdj) (Entered: 05/21/2010)
05/20/2010	188	SEALED Exhibits to #184 filed by DL. (This document is SEALED and only available to authorized persons.)(Exhibit A) (Attachments: # 1 Exhibit B, # 2 Exhibit G (part 1 of 4), # 3 Exhibit G (part 2 of 4), # 4 Exhibit G (part 3 of 4), # 5 Exhibit G (part 4 of 4)# 6 Exhibit H) (zrdj) : (zrdj,). (Entered: 05/21/2010)
05/26/2010	189	Consent MOTION for Order <i>Scheduling Oral Argument on Pending Summary Judgment Motions</i> by DL (Attachments: # 1 Text of Proposed Order)(Karam, Alexander) (Entered: 05/26/2010)
06/01/2010	190	REPLY to opposition to motion re 181 MOTION to Strike filed by DISTRICT OF COLUMBIA. (Attachments: # 1 Exhibit A)(Sulkowski, Sarah) (Entered: 06/01/2010)
06/11/2010	191	MOTION for Leave to File <i>Sur-Reply Brief in Reponse to Defendants' Reply in Support of Motion to Strike (Doc. No. 190)</i> by DL (Attachments: # 1 Text of Proposed Order, # 2 Exhibit 1 - Sur-Reply Brief, # 3 Exhibit J to Sur-Reply Brief, # 4 Exhibit K to Sur-Reply Brief, # 5 Exhibit L to Sur-Reply Brief)(Karam, Alexander) (Entered: 06/11/2010)
06/17/2010	192	Memorandum in opposition to re 191 MOTION for Leave to File <i>Sur-Reply Brief in Reponse to Defendants' Reply in Support of Motion to Strike (Doc. No. 190)</i> MOTION for Leave to File <i>Sur-Reply Brief in Reponse to Defendants' Reply in Support of Motion to Strike (Doc. No. 190)</i> filed by DISTRICT OF COLUMBIA. (Sulkowski, Sarah) (Entered: 06/17/2010)
06/23/2010	193	REPLY to opposition to motion re 191 MOTION for Leave to File <i>Sur-Reply Brief in Reponse to Defendants' Reply in Support of Motion to Strike (Doc. No. 190)</i> MOTION for Leave to File <i>Sur-Reply Brief in Reponse to Defendants' Reply in Support of Motion to Strike (Doc. No. 190)</i> filed by DL. (Karam, Alexander) (Entered: 06/23/2010)
06/23/2010	194	ORDER granting 191 Motion for Leave to File Sur-Reply Brief in Reponse to Defendants' Reply in Support of Motion to Strike (Doc. No. 190). Signed by Chief Judge Royce C. Lamberth on 6/23/10. (rje,) (Entered: 06/24/2010)
08/10/2010	195	ORDER granting in part and denying in part 181 Defendants' Motion to Strike Report and Testimony of Dr. Leonard Cupingood, Along with All Evidence Based Thereupon. Dr. Leonard Cupingood is qualified as an expert in statistics, but he is not qualified as an expert in computer programming. Dr. Cupingood's testimony is admissible. Signed by Chief Judge Royce C. Lamberth on August 10, 2010. (lcrcl4) (Entered: 08/10/2010)
08/10/2010	196	MEMORANDUM AND OPINION. Signed by Chief Judge Royce C. Lamberth on August 10, 2010. (lcrcl4) (Entered: 08/10/2010)
08/10/2010	197	ORDER granting in part and denying in part 177 Defendants' Motion for Summary Judgment. ORDER granting 178 Plaintiffs' Motion for Partial Summary Judgment on Liability. ORDER denying 189 Plaintiffs' Consent Motion for Order Scheduling Oral Argument on Pending Summary Judgment Motions. Signed by Chief Judge Royce C. Lamberth on August 10, 2010. (lcrcl4) (Entered: 08/10/2010)
08/10/2010	198	MEMORANDUM AND OPINION. Signed by Chief Judge Royce C. Lamberth on August 10, 2010. (lcrcl4) (Entered: 08/10/2010)

08/10/2010	199	ORDER denying 172 Plaintiffs' Opposed Motion for an Order Appointing a Magistrate Judge as Mediator and Compelling the Parties to Participate in Mediation. Signed by Chief Judge Royce C. Lamberth on August 10, 2010. (lcrcl4) (Entered: 08/10/2010)
09/15/2010	200	Joint MOTION for Order <i>Setting Pretrial Deadlines and Pretrial Conference and Trial Dates</i> by DL (Attachments: # 1 Text of Proposed Order)(Karam, Alexander) (Entered: 09/15/2010)
09/22/2010	201	ORDER granting 200 Motion for Order Setting Pretrial Deadlines and Pretrial Conference and Trial Dates. Signed by Chief Judge Royce C. Lamberth on 9/22/10. (rje,) (Entered: 09/23/2010)
09/22/2010		Set/Reset Hearings: Bench Trial set for 4/6/2011 at 10:00 AM in Courtroom 22A before Chief Judge Royce C. Lamberth. (rje) Modified on 9/23/2010 (rje,). (Entered: 09/23/2010)
09/22/2010	202	ORDER REFERRING CASE to Mediation.. Signed by Chief Judge Royce C. Lamberth on 9/22/10. (rje,) (Entered: 09/23/2010)
03/02/2011		Set/Reset Hearings: Pretrial Conference reset for 3/29/2011 at 11:00 AM in Courtroom 22A before Chief Judge Royce C. Lamberth. (rje,) (Entered: 03/02/2011)
03/02/2011	203	NOTICE of Appearance by Chad Wayne Copeland on behalf of DISTRICT OF COLUMBIA (Copeland, Chad) (Entered: 03/02/2011)
03/02/2011	204	Consent MOTION for Extension of Time to File <i>Pretrial Statement</i> by DISTRICT OF COLUMBIA (Sulkowski, Sarah) (Entered: 03/02/2011)
03/02/2011	205	NOTICE of Appearance by Caroline B. Hutton on behalf of DISTRICT OF COLUMBIA (Hutton, Caroline) (Entered: 03/02/2011)
03/04/2011		MINUTE ORDER granting 204 defendants' Consent Motion to Extend Time. The deadline for filing the parties' pretrial statement is extended to March 15, 2011. Signed by Chief Judge Royce C. Lamberth on March 4, 2011. (lcrcl4) (Entered: 03/04/2011)
03/07/2011		Set/Reset Deadlines: Parties' Pretrial Statement due by 3/15/2011. (rje,) (Entered: 03/07/2011)
03/09/2011	206	STIPULATION <i>Regarding Order of Proof</i> by DISTRICT OF COLUMBIA. (Sulkowski, Sarah) (Entered: 03/09/2011)
03/15/2011	207	PRETRIAL STATEMENT by all plaintiffs. (Karam, Alexander) Modified to add filers on 3/16/2011 (znmw,). (Entered: 03/15/2011)
03/15/2011	208	PRETRIAL STATEMENT by DISTRICT OF COLUMBIA, DEBORAH GIST, MICHELLE RHEE. (Attachments: # 1 Exhibit 1, # 2 Exhibit 2, # 3 Exhibit 3)(Sulkowski, Sarah) Modified to add filers on 3/16/2011 (znmw,). (Entered: 03/15/2011)
03/16/2011		NOTICE OF ERROR re 207 Pretrial Statement; emailed to akaram@tpmlaw.com, cc'd 13 associated attorneys -- The PDF file you docketed contained errors: 1. Also re 208 : Counsel is reminded to select all parties/filers represented in the filing. (znmw,) (Entered: 03/16/2011)
03/16/2011	209	RESPONSE TO ORDER OF THE COURT re 201 Order on Motion for Order <i>Plaintiffs' Written Direct Testimony</i> filed by ALL PLAINTIFFS. (Attachments: # 1 Direct Testimony of Dr. Carl J. Dunst, # 2 Direct Testimony of Dr. Leonard A. Cupingood, # 3 Direct Testimony of Ruth Anderson Wilcox)(Karam, Alexander) Modified to add filers on 3/17/2011 (znmw,). (Entered: 03/16/2011)
03/16/2011	210	NOTICE of <i>Filing Written Testimony</i> by DISTRICT OF COLUMBIA, CLIFFORD B. JANEY, MICHELLE RHEE, and DEBORAH GIST (Attachments: # 1 Exhibit Testimony of Nathaniel Beers, # 2 Exhibit Testimony of Maxine Freund, # 3 Exhibit Testimony of Amy Maisterra)(Sulkowski, Sarah) Modified on 3/17/2011 to add filers (dr). (Entered: 03/16/2011)
03/17/2011	211	RESPONSE re 206 Stipulation filed by ALL PLAINTIFFS. (Attachments: # 1 Text of

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	Proposed Order (Karam, Alexander) Modified to add files on 3/18/2011 (znmw,) (Entered: 03/17/2011)
03/18/2011	NOTICE OF ERROR re 211 Response to Document; emailed to akaram@tpmlaw.com, cc'd 11 associated attorneys -- The PDF file you docketed contained errors: 1. Again, counsel is reminded to select all parties represented in filing. (znmw,) (Entered: 03/18/2011)
03/22/2011	212 Exhibit List (<i>Corrected</i>) by DISTRICT OF COLUMBIA, DEBORAH GIST, CLIFFORD B. JANEY, MICHELLE RHEE. (Sulkowski, Sarah) (Entered: 03/22/2011)
03/23/2011	213 RESPONSE re 208 Pretrial Statement : <i>Plaintiffs' Objections to Defendants' Pretrial Statement</i> filed by DL. (Karam, Alexander) (Entered: 03/23/2011)
03/23/2011	214 MOTION Decertification of Class by DISTRICT OF COLUMBIA, DEBORAH GIST, CLIFFORD B. JANEY, MICHELLE RHEE (Attachments: # 1 Exhibit 1)(Sulkowski, Sarah) (Entered: 03/23/2011)
03/23/2011	215 Emergency MOTION to Expedite <i>Briefing on Motion to Decertify Class</i> by DISTRICT OF COLUMBIA, DEBORAH GIST, CLIFFORD B. JANEY, MICHELLE RHEE (Sulkowski, Sarah) (Entered: 03/23/2011)
03/24/2011	216 Memorandum in opposition to re 215 Emergency MOTION to Expedite <i>Briefing on Motion to Decertify Class</i> filed by DL. (Attachments: # 1 Text of Proposed Order, # 2 Exhibit 1, # 3 Exhibit 2, # 4 Exhibit 3, # 5 Exhibit 4, # 6 Exhibit 5, # 7 Exhibit 6)(Karam, Alexander) (Entered: 03/24/2011)
03/24/2011	217 REPLY re 206 Stipulation filed by DISTRICT OF COLUMBIA, DEBORAH GIST, CLIFFORD B. JANEY, MICHELLE RHEE. (Copeland, Chad) (Entered: 03/24/2011)
03/24/2011	218 MOTION To Present Oral Direct Testimony by DISTRICT OF COLUMBIA, DEBORAH GIST, CLIFFORD B. JANEY, MICHELLE RHEE (Sulkowski, Sarah) (Entered: 03/24/2011)
03/25/2011	219 MOTION to Strike re 213 <i>in Part Plaintiffs' Objections to Pretrial Statement</i> by DISTRICT OF COLUMBIA, DEBORAH GIST, CLIFFORD B. JANEY, MICHELLE RHEE (Sulkowski, Sarah) Modified on 3/25/2011 to add linkage (rdj). (Entered: 03/25/2011)
03/25/2011	220 RESPONSE <i>Objections to Plaintiffs' Pretrial Statement</i> filed by DISTRICT OF COLUMBIA, DEBORAH GIST, CLIFFORD B. JANEY, MICHELLE RHEE. (Sulkowski, Sarah) (Entered: 03/25/2011)
03/25/2011	221 MOTION for Judgment as a Matter of Law by DISTRICT OF COLUMBIA, DEBORAH GIST, CLIFFORD B. JANEY, MICHELLE RHEE (Attachments: # 1 Exhibit, # 2 Exhibit) (Copeland, Chad) (Entered: 03/25/2011)
03/28/2011	222 Memorandum in opposition to re 218 MOTION To Present Oral Direct Testimony filed by LEAH BLAND, FREDERICK DAVY, MONICA DAVY, DL, FD, TAMEKA FORD, HW, JB, TIMOTHY LANTRY, ARLETTE MANKEMI, ANGELIQUE MOORE, KERIANNE PIESTER, TF, TL, RONALD WISOR, XY, BRYAN YOUNG, TAMMIKA YOUNG. (Attachments: # 1 Text of Proposed Order)(Karam, Alexander) (Entered: 03/28/2011)
03/28/2011	223 Memorandum in opposition to re 219 MOTION to Strike <i>in Part Plaintiffs' Objections to Pretrial Statement</i> filed by LEAH BLAND, FREDERICK DAVY, MONICA DAVY, DL, FD, TAMEKA FORD, HW, JB, TIMOTHY LANTRY, ARLETTE MANKEMI, ANGELIQUE MOORE, KERIANNE PIESTER, TF, TL, RONALD WISOR, XY, BRYAN YOUNG, TAMMIKA YOUNG. (Attachments: # 1 Text of Proposed Order)(Karam, Alexander) (Entered: 03/28/2011)
03/28/2011	224 REPLY re 206 <i>Stipulation on Order of Proof at Trial</i> filed by LEAH BLAND, FREDERICK DAVY, MONICA DAVY, DL, FD, TAMEKA FORD, HW, JB, TIMOTHY LANTRY, ARLETTE MANKEMI, ANGELIQUE MOORE, KERIANNE PIESTER, TF, TL, RONALD WISOR, XY, BRYAN YOUNG, TAMMIKA YOUNG. (Karam, Alexander) Modified on 3/28/2011 to add linkage (rdj). (Entered: 03/28/2011)

03/28/2011	225	REPLY to opposition to motion re 215 Emergency MOTION to Expedite <i>Briefing on Motion to Decertify Class</i> filed by DISTRICT OF COLUMBIA, DEBORAH GIST, CLIFFORD B. JANEY, MICHELLE RHEE. (Sulkowski, Sarah) (Entered: 03/28/2011)
03/28/2011	226	SUPPLEMENTAL MEMORANDUM to re 207 Pretrial Statement filed by LEAH BLAND, FREDERICK DAVY, MONICA DAVY, DL, FD, TAMEKA FORD, HW, JB, TIMOTHY LANTRY, ARLETTE MANKEMI, ANGELIQUE MOORE, KERIANNE PIESTER, TF, TL, RONALD WISOR, XY, BRYAN YOUNG, TAMMIKA YOUNG. (Karam, Alexander) (Entered: 03/28/2011)
03/28/2011	227	REPLY to opposition to motion re 218 MOTION To Present Oral Direct Testimony filed by DISTRICT OF COLUMBIA, DEBORAH GIST, CLIFFORD B. JANEY, MICHELLE RHEE. (Sulkowski, Sarah) (Entered: 03/28/2011)
03/28/2011	228	REPLY to opposition to motion re 219 MOTION to Strike <i>in Part Plaintiffs' Objections to Pretrial Statement</i> filed by DISTRICT OF COLUMBIA, DEBORAH GIST, CLIFFORD B. JANEY, MICHELLE RHEE. (Sulkowski, Sarah) (Entered: 03/28/2011)
03/29/2011		Minute Entry for proceedings held before Chief Judge Royce C. Lamberth: Pretrial Conference held on 3/29/2011. Pretrial Order to follow. Bench Trial set for 4/6/2011 at 10:00 AM in Courtroom 22A before Chief Judge Royce C. Lamberth. (Court Reporter Wendy Ricard.) (rje) (Entered: 03/29/2011)
03/29/2011	229	PRETRIAL ORDER denying 218 defendants' Motion to Present Oral Testimony; denying 219 defendants' Motion to Strike in Part Plaintiffs' Objections to Defendants' Pretrial Statement; sustaining plaintiffs' objection to defendants' inclusion of Tameria J. Lewis as a witness for defendants in their case in chief; denying 215 defendants' Emergency Motion for Expedited Briefing on Motion to Decertify Class; granting plaintiffs' motions for extensions of time to oppose defendants' motions and ordering that plaintiffs shall file their oppositions to defendants' motions on or before April 22, 2011. Signed by Chief Judge Royce C. Lamberth on March 29, 2011. (lcrcl4) (Entered: 03/29/2011)
03/30/2011	230	<i>Corrected Pretrial Statement</i> by DISTRICT OF COLUMBIA, DEBORAH GIST, CLIFFORD B. JANEY, MICHELLE RHEE. (Attachments: # 1 Exhibit 1, # 2 Exhibit 2, # 3 Exhibit 3) (Sulkowski, Sarah) Modified on 3/30/2011 to correct event(rdj). (Entered: 03/30/2011)
04/04/2011	231	RESPONSE TO ORDER OF THE COURT re 201 Order on Motion for Order <i>Supplement to Direct Testimony of Dr. Carl J. Dunst</i> filed by LEAH BLAND, FREDERICK DAVY, MONICA DAVY, DL, FD, TAMEKA FORD, HW, JB, TIMOTHY LANTRY, ARLETTE MANKEMI, ANGELIQUE MOORE, KERIANNE PIESTER, TF, TL, RONALD WISOR, XY, BRYAN YOUNG, TAMMIKA YOUNG. (Karam, Alexander) (Entered: 04/04/2011)
04/06/2011		Set/Reset Hearings: Bench Trial set for 4/7/2011 at 01:30 PM in Courtroom 22A before Chief Judge Royce C. Lamberth. (rje) (Entered: 04/06/2011)
04/06/2011		Minute Entry for proceedings held before Chief Judge Royce C. Lamberth: Bench Trial held on 4/6/2011 and continued to 4/7/2011 at 01:30 PM in Courtroom 22A before Chief Judge Royce C. Lamberth. (Plaintiff's Witnesses: Dr. Carl Dunst, Dr. Leonard Cupingood, Ruth Anderson Wilcox; Defendant's Witnesses: Dr. Maxine Freund and Dr. Nathaniel Beers). (Court Reporter Theresa Sorensen.) (rje) (Entered: 04/07/2011)
04/07/2011		Minute Entry for proceedings held before Chief Judge Royce C. Lamberth: Bench Trial held on 4/7/2011 and concluded. The Court heard defendant's Motion for Judgment as a Matter of Law and reserved judgment on it. (Defense Witnesses: Dr. Nathaniel Beers and Amy Maisterra; Plaintiff's Rebuttal Witness: Dr. Carl Dunst)(Court Reporter Theresa Sorensen.) (Entered: 04/07/2011)
04/07/2011	232	ORDER. Signed by Chief Judge Royce C. Lamberth on April 7, 2011. (lcrcl4) (Entered: 04/07/2011)

04/08/2011		Set/Reset Deadlines: Defendants' production of all responsive e-mails due by 4/14/2011. Both parties Proposed Findings of Fact and Conclusions of Law due by 5/16/2011. Plaintiffs oppositions to defendants' Motions for Relief from Judgment and Judgment as a Matter of Law due 4/22/2011. Defendants'Reply due by 5/16/2011. (rje) Modified on 4/12/2011 (rje,). (Entered: 04/08/2011)
04/11/2011	233	MOTION for Reconsideration re 232 Order by DISTRICT OF COLUMBIA, DEBORAH GIST, CLIFFORD B. JANEY, MICHELLE RHEE (Attachments: # 1 Exhibit 1, # 2 Exhibit 2, # 3 Exhibit 3, # 4 Exhibit 4)(Sulkowski, Sarah) (Entered: 04/11/2011)
04/11/2011	234	MOTION to Stay re 232 Order by DISTRICT OF COLUMBIA, DEBORAH GIST, CLIFFORD B. JANEY, MICHELLE RHEE (Sulkowski, Sarah) (Entered: 04/11/2011)
04/11/2011	235	Consent MOTION Clarification of April 7, 2011, Order re 232 Order by DISTRICT OF COLUMBIA, DEBORAH GIST, CLIFFORD B. JANEY, MICHELLE RHEE (Sulkowski, Sarah) (Entered: 04/11/2011)
04/18/2011	236	Memorandum in opposition to re 233 MOTION for Reconsideration re 232 Order filed by LEAH BLAND, FREDERICK DAVY, MONICA DAVY, DL, FD, TAMEKA FORD, HW, JB, TIMOTHY LANTRY, ARLETTE MANKEMI, ANGELIQUE MOORE, KERIANNE PIESTER, TF, TL, RONALD WISOR, XY, BRYAN YOUNG, TAMMIKA YOUNG. (Attachments: # 1 Text of Proposed Order, # 2 Exhibit 1, # 3 Exhibit 2, # 4 Exhibit 3, # 5 Exhibit 4, # 6 Exhibit 5, # 7 Exhibit 6, # 8 Exhibit 7, # 9 Exhibit 8, # 10 Exhibit 9, # 11 Exhibit 10)(Karam, Alexander) (Entered: 04/18/2011)
04/18/2011	237	Memorandum in opposition to re 234 MOTION to Stay re 232 Order filed by LEAH BLAND, FREDERICK DAVY, MONICA DAVY, DL, FD, TAMEKA FORD, HW, JB, TIMOTHY LANTRY, ARLETTE MANKEMI, ANGELIQUE MOORE, KERIANNE PIESTER, TF, TL, RONALD WISOR, XY, BRYAN YOUNG, TAMMIKA YOUNG. (Attachments: # 1 Text of Proposed Order)(Karam, Alexander) (Entered: 04/18/2011)
04/22/2011	238	Memorandum in opposition to re 214 MOTION Decertification of Class filed by LEAH BLAND, FREDERICK DAVY, MONICA DAVY, DL, FD, TAMEKA FORD, HW, JB, TIMOTHY LANTRY, ARLETTE MANKEMI, ANGELIQUE MOORE, KERIANNE PIESTER, TF, TL, RONALD WISOR, XY, BRYAN YOUNG, TAMMIKA YOUNG. (Attachments: # 1 Text of Proposed Order, # 2 Exhibit 1, # 3 Exhibit 2, # 4 Exhibit 3, # 5 Exhibit 4, # 6 Exhibit 5)(Karam, Alexander) (Entered: 04/22/2011)
04/22/2011	239	Memorandum in opposition to re 221 MOTION for Judgment as a Matter of Law filed by LEAH BLAND, FREDERICK DAVY, MONICA DAVY, DL, FD, TAMEKA FORD, HW, JB, TIMOTHY LANTRY, ARLETTE MANKEMI, ANGELIQUE MOORE, KERIANNE PIESTER, TF, TL, RONALD WISOR, XY, BRYAN YOUNG, TAMMIKA YOUNG. (Attachments: # 1 Text of Proposed Order, # 2 Exhibit 1, # 3 Exhibit 2)(Karam, Alexander) (Entered: 04/22/2011)
04/22/2011	240	NOTICE <i>Regarding Discovery</i> by DISTRICT OF COLUMBIA, DEBORAH GIST, CLIFFORD B. JANEY, MICHELLE RHEE (Sulkowski, Sarah) (Entered: 04/22/2011)
04/25/2011	241	REPLY to opposition to motion re 234 MOTION to Stay re 232 Order filed by DISTRICT OF COLUMBIA, DEBORAH GIST, CLIFFORD B. JANEY, MICHELLE RHEE. (Attachments: # 1 Exhibit 1)(Sulkowski, Sarah) (Entered: 04/25/2011)
04/28/2011	242	NOTICE <i>Regarding Discovery</i> by DISTRICT OF COLUMBIA, DEBORAH GIST, CLIFFORD B. JANEY, MICHELLE RHEE (Sulkowski, Sarah) (Entered: 04/28/2011)
04/28/2011	243	REPLY to opposition to motion re 233 MOTION for Reconsideration re 232 Order filed by DISTRICT OF COLUMBIA, DEBORAH GIST, CLIFFORD B. JANEY, MICHELLE RHEE. (Attachments: # 1 Exhibit 1)(Sulkowski, Sarah) (Entered: 04/28/2011)
04/28/2011	244	ERRATA <i>Corrected reply brief</i> by DISTRICT OF COLUMBIA, DEBORAH GIST, CLIFFORD B. JANEY, MICHELLE RHEE 243 Reply to opposition to Motion filed by

USCA Case # 18-7004 Document # 1732051 Filed 05/20/2018 Page 56 of 57		MICHELLE RHEE, DISTRICT OF COLUMBIA, CLIFFORD B. JANEY, DEBORAH GIST. (Attachments: # 1 Exhibit 1)(Sulkowski, Sarah) (Entered: 04/28/2011)
05/02/2011	245	NOTICE OF WITHDRAWAL OF APPEARANCE as to LEAH BLAND, FREDERICK DAVY, MONICA DAVY, DL, FD, TAMEKA FORD, HW, JB, TIMOTHY LANTRY, ARLETTE MANKEMI, ANGELIQUE MOORE, KERIANNE PIESTER, TF, TL, RONALD WISOR, XY, BRYAN YOUNG, TAMMIKA YOUNG. Attorney Alexander R. Karam terminated. (Karam, Alexander) (Entered: 05/02/2011)
05/06/2011	246	NOTICE by LEAH BLAND, DORIS COCKRELL, FREDERICK DAVY, MONICA DAVY, DC, DL, FD, TAMEKA FORD, HW, JB, TIMOTHY LANTRY, DARWIN LAZO, ARLETTE MANKEMI, ANGELIQUE MOORE, OUL, KERIANNE PIESTER, TF, TL, ELIZABETH UMANA-LAZO, RONALD WISOR, XY, BRYAN YOUNG, TAMMIKA YOUNG re 238 Memorandum in Opposition, (Attachments: # 1 Affidavit)(Terris, Bruce) (Entered: 05/06/2011)
05/09/2011	247	MEMORANDUM OPINION denying 233 Motion for Reconsideration. Signed by Chief Judge Royce C. Lamberth on May 9, 2011.(lcrcl3) (Entered: 05/09/2011)
05/09/2011	248	Consent MOTION for Extension of Time to File <i>Proposed Findings of Fact and Conclusions of Law</i> by DISTRICT OF COLUMBIA, DEBORAH GIST, CLIFFORD B. JANEY, MICHELLE RHEE (Sulkowski, Sarah) (Entered: 05/09/2011)
05/12/2011	249	ORDER granting 248 Motion for Extension of Time to File. Signed by Chief Judge Royce C. Lamberth on May 12, 2011.(lcrcl3) (Entered: 05/12/2011)
05/12/2011		Set/Reset Deadlines: Proposed findings of fact and conclusions of law due by 6/3/2011. (rje,) (Entered: 05/12/2011)
05/12/2011	250	ORDER denying defendants' Motion for Reconsideration 233 . Signed by Chief Judge Royce C. Lamberth on May 12, 2011.(lcrcl3) (Entered: 05/12/2011)
05/13/2011	251	NOTICE OF WITHDRAWAL OF APPEARANCE as to DISTRICT OF COLUMBIA, DEBORAH GIST, CLIFFORD B. JANEY, MICHELLE RHEE. Attorney Sarah Ann Sulkowski terminated. (Sulkowski, Sarah) (Entered: 05/13/2011)
05/16/2011	252	REPLY to opposition to motion re 214 MOTION Decertification of Class filed by DISTRICT OF COLUMBIA, DEBORAH GIST, CLIFFORD B. JANEY, MICHELLE RHEE. (Copeland, Chad) (Entered: 05/16/2011)
05/16/2011	253	REPLY to opposition to motion re 221 MOTION for Judgment as a Matter of Law filed by DISTRICT OF COLUMBIA, DEBORAH GIST, CLIFFORD B. JANEY, MICHELLE RHEE. (Copeland, Chad) (Entered: 05/16/2011)
05/16/2011		ERRATA re 247 Memorandum Opinion entered on May 9, 2011. On page 13 in paragraph 2, line 7, should read " The District's production of thousands of e-mails some more than two years old after the date of trial was a clear violation of their duty under Rule 26(e)(1)(B) to comply with this Courts supplementation orders". (rje) (Entered: 05/16/2011)
06/03/2011	254	Proposed Findings of Fact by DISTRICT OF COLUMBIA, DEBORAH GIST, CLIFFORD B. JANEY, MICHELLE RHEE. (Attachments: # 1 Exhibit Declaration of Nathaniel Beers) (Copeland, Chad) (Entered: 06/03/2011)
06/03/2011	255	MOTION Re-open the Record to Admit Additional Exhibits by LEAH BLAND, DORIS COCKRELL, FREDERICK DAVY, MONICA DAVY, DC, DL, FD, TAMEKA FORD, HW, JB, TIMOTHY LANTRY, DARWIN LAZO, ARLETTE MANKEMI, ANGELIQUE MOORE, OUL, KERIANNE PIESTER, TF, TL, ELIZABETH UMANA-LAZO, RONALD WISOR, XY, BRYAN YOUNG, TAMMIKA YOUNG (Attachments: # 1 Text of Proposed Order, # 2 Exhibit, # 3 Exhibit, # 4 Exhibit, # 5 Exhibit, # 6 Exhibit, # 7 Exhibit, # 8 Exhibit, # 9 Exhibit, # 10 Exhibit, # 11 Exhibit, # 12 Exhibit, # 13 Exhibit, # 14 Exhibit, # 15 Exhibit, # 16 Exhibit)(Terris, Bruce) (Entered: 06/03/2011)

06/03/2011	256	Proposed Findings of Fact by LEAH BLAND, DORIS COCKRELL, FREDERICK DAVY, MONICA DAVY, DC, DL, FD, TAMEKA FORD, HW, JB, TIMOTHY LANTRY, DARWIN LAZO, ARLETTE MANKEMI, ANGELIQUE MOORE, OUL, KERIANNE PIESTER, TF, TL, ELIZABETH UMANA-LAZO, RONALD WISOR, XY, BRYAN YOUNG, TAMMIKA YOUNG. (Attachments: # 1 Text of Proposed Order)(Terris, Bruce) (Entered: 06/03/2011)
06/06/2011	257	NOTICE of Defendants' Objections to Plaintiffs' Post-Trial Exhibits by DISTRICT OF COLUMBIA (Hutton, Caroline) (Entered: 06/06/2011)
06/06/2011	258	ERRATA by DISTRICT OF COLUMBIA, DEBORAH GIST, CLIFFORD B. JANEY, MICHELLE RHEE 257 Notice (Other) filed by DISTRICT OF COLUMBIA. (Attachments: # 1 Errata)(Hutton, Caroline) (Entered: 06/06/2011)
06/13/2011	259	Motion for Leave to file surreply <i>Defendants' Reply in Support of Motion to Decertify Class</i> filed by LEAH BLAND, DORIS COCKRELL, FREDERICK DAVY, MONICA DAVY, DC, DL, FD, TAMEKA FORD, HW, JB, TIMOTHY LANTRY, DARWIN LAZO, ARLETTE MANKEMI, ANGELIQUE MOORE, OUL, KERIANNE PIESTER, TF, TL, ELIZABETH UMANA-LAZO, RONALD WISOR, XY, BRYAN YOUNG, TAMMIKA YOUNG. (Attachments: # 1 Memorandum in Support Pl. Sur-Reply Brief, # 2 Exhibit, # 3 Exhibit, # 4 Exhibit)(Terris, Bruce) Modified on 6/16/2011 event to read Motion for Leave (td,). (Entered: 06/13/2011)
06/16/2011	260	Memorandum in opposition to re 259 MOTION for Leave to File a <i>Sur-Reply to Defendants' Reply in Support of Motion to Decertify Class</i> filed by DISTRICT OF COLUMBIA, DEBORAH GIST, CLIFFORD B. JANEY, MICHELLE RHEE. (Copeland, Chad) (Entered: 06/16/2011)
06/16/2011	261	MOTION for Leave to File SURREPLY to <i>Defendants' Reply in Support of Motion for Relief From Judgment and for Judgment as a Matter of Law</i> filed by LEAH BLAND, DORIS COCKRELL, FREDERICK DAVY, MONICA DAVY, DC, DL, FD, TAMEKA FORD, HW, JB, TIMOTHY LANTRY, DARWIN LAZO, ARLETTE MANKEMI, ANGELIQUE MOORE, OUL, KERIANNE PIESTER, TF, TL, ELIZABETH UMANA-LAZO, RONALD WISOR, XY, BRYAN YOUNG, TAMMIKA YOUNG. (Attachments: # 1 Exhibit Pl. Sur-Reply Brief_Attached as Exhibit 1, # 2 Exhibit)(Terris, Bruce) Modified on 6/22/2011 to correct event (rdj). (Entered: 06/16/2011)
06/17/2011	262	REPLY to opposition to motion re 255 MOTION Re-open the Record to Admit Additional Exhibits filed by LEAH BLAND, DORIS COCKRELL, FREDERICK DAVY, MONICA DAVY, DC, DL, FD, TAMEKA FORD, HW, JB, TIMOTHY LANTRY, DARWIN LAZO, ARLETTE MANKEMI, ANGELIQUE MOORE, OUL, KERIANNE PIESTER, TF, TL, ELIZABETH UMANA-LAZO, RONALD WISOR, XY, BRYAN YOUNG, TAMMIKA YOUNG. (Terris, Bruce) (Entered: 06/17/2011)
06/22/2011	263	Memorandum in opposition to re 261 MOTION for Leave to File a <i>Sur-Reply to Defendants' Reply in Support of Motion for Relief from Judgment and for Judgment as a Matter of Law</i> filed by DISTRICT OF COLUMBIA, DEBORAH GIST, CLIFFORD B. JANEY, MICHELLE RHEE. (Copeland, Chad) (Entered: 06/22/2011)
06/29/2011	264	REPLY to opposition to motion re 261 MOTION for Leave to File <i>sur-reply</i> filed by LEAH BLAND, DORIS COCKRELL, FREDERICK DAVY, MONICA DAVY, DC, DL, FD, TAMEKA FORD, HW, JB, TIMOTHY LANTRY, DARWIN LAZO, ARLETTE MANKEMI, ANGELIQUE MOORE, OUL, KERIANNE PIESTER, TF, TL, ELIZABETH UMANA-LAZO, RONALD WISOR, XY, BRYAN YOUNG, TAMMIKA YOUNG. (Terris, Bruce) (Entered: 06/29/2011)
07/01/2011	265	SUPPLEMENTAL MEMORANDUM to re 214 MOTION Decertification of Class filed by DISTRICT OF COLUMBIA, DEBORAH GIST, CLIFFORD B. JANEY, MICHELLE RHEE. (Copeland, Chad) (Entered: 07/01/2011)
07/12/2011	266	NOTICE by LEAH BLAND, DORIS COCKRELL, FREDERICK DAVY, MONICA DAVY,

		DC, DL, FD, TAMEKA FORD, HW, JB, TIMOTHY LANTRY, DARWIN LAZO, ARLETTE MANKEMI, ANGELIQUE MOORE, OUL, KERIANNE PIESTER, TF, TL, ELIZABETH UMANA-LAZO, RONALD WISOR, XY, BRYAN YOUNG, TAMMIKA YOUNG re 265 Supplemental Memorandum (Terris, Bruce) (Entered: 07/12/2011)
07/18/2011	267	SUPPLEMENTAL MEMORANDUM to re 214 MOTION Decertification of Class filed by LEAH BLAND, DORIS COCKRELL, FREDERICK DAVY, MONICA DAVY, DC, DL, FD, TAMEKA FORD, HW, JB, TIMOTHY LANTRY, DARWIN LAZO, ARLETTE MANKEMI, ANGELIQUE MOORE, OUL, KERIANNE PIESTER, TF, TL, ELIZABETH UMANA-LAZO, RONALD WISOR, XY, BRYAN YOUNG, TAMMIKA YOUNG. (Attachments: # 1 Exhibit, # 2 Exhibit, # 3 Exhibit, # 4 Exhibit)(Terris, Bruce) (Entered: 07/18/2011)
07/25/2011	268	REPLY re 214 MOTION Decertification of Class filed by DISTRICT OF COLUMBIA, DEBORAH GIST, CLIFFORD B. JANEY, MICHELLE RHEE. (Copeland, Chad) (Entered: 07/25/2011)
08/08/2011	269	NOTICE <i>Extension of Time</i> by LEAH BLAND, DORIS COCKRELL, FREDERICK DAVY, MONICA DAVY, DC, DL, FD, TAMEKA FORD, HW, JB, TIMOTHY LANTRY, DARWIN LAZO, ARLETTE MANKEMI, ANGELIQUE MOORE, OUL, KERIANNE PIESTER, TF, TL, ELIZABETH UMANA-LAZO, RONALD WISOR, XY, BRYAN YOUNG, TAMMIKA YOUNG re 267 Supplemental Memorandum, (Terris, Bruce) (Entered: 08/08/2011)
08/18/2011	270	MOTION for Leave to File Second Amended Complaint, by LEAH BLAND, DORIS COCKRELL, FREDERICK DAVY, MONICA DAVY, DC, DL, FD, TAMEKA FORD, HW, JB, TIMOTHY LANTRY, DARWIN LAZO, ARLETTE MANKEMI, ANGELIQUE MOORE, OUL, KERIANNE PIESTER, TF, TL, ELIZABETH UMANA-LAZO, RONALD WISOR, XY, BRYAN YOUNG, TAMMIKA YOUNG (Attachments: # 1 Memorandum in Support Memorandum of Law in Support of Motion to Amend Complaint, # 2 Exhibit Second Amended Complaint)(Terris, Bruce) Modified on 8/19/2011 to correct event(rdj). (Entered: 08/18/2011)
08/18/2011	271	MOTION to Certify Class by LEAH BLAND, DORIS COCKRELL, FREDERICK DAVY, MONICA DAVY, DC, DL, FD, TAMEKA FORD, HW, JB, TIMOTHY LANTRY, DARWIN LAZO, ARLETTE MANKEMI, ANGELIQUE MOORE, OUL, KERIANNE PIESTER, TF, TL, ELIZABETH UMANA-LAZO, RONALD WISOR, XY, BRYAN YOUNG, TAMMIKA YOUNG (Attachments: # 1 Supplement Proposed Order for plaintiffs' Motion to Recertify Class, # 2 Memorandum in Support Memorandum of Law in support of motion to recertify class, # 3 Exhibit Dunst Direct Testimony Exhibit, # 4 Exhibit Beers Direct Testimony Exhibit, # 5 Exhibit APR Report Exhibit, # 6 Exhibit Scorecard Exhibit, # 7 Exhibit Cupingood Direct Testimony Exhibit, # 8 Exhibit Dunst Expert Report Exhibit, # 9 Exhibit Freund Direct Testimony Exhibit, # 10 Exhibit Freund Expert Report, # 11 Exhibit Supplementary Interrog Appendix Exhibit, # 12 Exhibit Maisterra Direct Testimony Exhibit, # 13 Exhibit DCPS Press Release Exhibit, # 14 Exhibit Scorecard Exhibit, # 15 Exhibit Scorecard Exhibit, # 16 Exhibit Letter from Posny to Briggs Exhibit, # 17 Exhibit Affidavit of Bruce Terris Exhibit, # 18 Exhibit Affidavit of Kathleen Millian Exhibit, # 19 Exhibit Affidavit of Jeffrey Gutman Exhibit, # 20 Exhibit Affidavit of Margaret Kohn Exhibit, # 21 Exhibit Family Care Manual Exhibit)(Terris, Bruce) (Entered: 08/18/2011)
08/23/2011	272	MOTION for Extension of Time to File Response/Reply as to 271 MOTION to Certify Class, 270 MOTION for Leave to File by DISTRICT OF COLUMBIA, DEBORAH GIST, CLIFFORD B. JANEY, MICHELLE RHEE (Copeland, Chad) (Entered: 08/23/2011)
08/24/2011	273	NOTICE OF PROPOSED ORDER re 256 Proposed Findings of Fact, filed by ANGELIQUE MOORE, JB, TIMOTHY LANTRY, DL, TF, TAMEKA FORD, XY, DC, FD, DARWIN LAZO, BRYAN YOUNG, DORIS COCKRELL, FREDERICK DAVY, TL, TAMMIKA YOUNG, ELIZABETH UMANA-LAZO, LEAH BLAND, HW, OUL, RONALD WISOR, MONICA DAVY, ARLETTE MANKEMI, KERIANNE PIESTER by LEAH BLAND, DORIS COCKRELL, FREDERICK DAVY, MONICA DAVY, DC, DL, FD, TAMEKA FORD, HW, JB, TIMOTHY LANTRY, DARWIN LAZO, ARLETTE MANKEMI,

		ANGELIQUE MOORE, OUL, KERIANNE PIESTER, TF, TL, ELIZABETH UMANA-LAZO, RONALD WISOR, XY, BRYAN YOUNG, TAMMIKA YOUNG. (Terris, Bruce) Modified event title on 8/25/2011 (znmw,). (Entered: 08/24/2011)
08/24/2011	274	NOTICE by LEAH BLAND, DORIS COCKRELL, FREDERICK DAVY, MONICA DAVY, DC, DL, FD, TAMEKA FORD, HW, JB, TIMOTHY LANTRY, DARWIN LAZO, ARLETTE MANKEMI, ANGELIQUE MOORE, OUL, KERIANNE PIESTER, TF, TL, ELIZABETH UMANA-LAZO, RONALD WISOR, XY, BRYAN YOUNG, TAMMIKA YOUNG re 273 Memorandum,, (Terris, Bruce) (Entered: 08/24/2011)
08/26/2011	275	Memorandum in opposition to re 272 MOTION for Extension of Time to File Response/Reply as to 271 MOTION to Certify Class, 270 MOTION for Leave to File <i>Second Amended Complaint</i> filed by LEAH BLAND, DORIS COCKRELL, FREDERICK DAVY, MONICA DAVY, DC, DL, FD, TAMEKA FORD, HW, JB, TIMOTHY LANTRY, DARWIN LAZO, ARLETTE MANKEMI, ANGELIQUE MOORE, OUL, KERIANNE PIESTER, TF, TL, ELIZABETH UMANA-LAZO, RONALD WISOR, XY, BRYAN YOUNG, TAMMIKA YOUNG. (Terris, Bruce) (Entered: 08/26/2011)
08/29/2011	276	REPLY to opposition to motion re 272 MOTION for Extension of Time to File Response/Reply as to 271 MOTION to Certify Class, 270 MOTION for Leave to File <i>Second Amended Complaint</i> filed by DISTRICT OF COLUMBIA, DEBORAH GIST, CLIFFORD B. JANEY, MICHELLE RHEE. (Copeland, Chad) (Entered: 08/29/2011)
08/30/2011	277	ORDER that defendants' responses to plaintiffs' motion for leave to file their second amended complaint and to plaintiffs' motion for class recertification are both due on 9/30/2011. (Signed by Chief Judge Royce C. Lamberth on 8/29/2011) (tj) (Entered: 08/31/2011)
09/28/2011	278	ORDER granting 235 defendants' Consent Motion to Clarify. Signed by Chief Judge Royce C. Lamberth on September 28, 2011. (lcrcl4) (Entered: 09/28/2011)
09/30/2011	279	NOTICE of Filing of Declaration by DISTRICT OF COLUMBIA, DEBORAH GIST, CLIFFORD B. JANEY, MICHELLE RHEE (Attachments: # 1 Declaration Declaration of Dr. Nathaniel Beers)(Copeland, Chad) (Entered: 09/30/2011)
09/30/2011	280	Memorandum in opposition to re 270 MOTION for Leave to File <i>Second Amended Complaint</i> filed by DISTRICT OF COLUMBIA, DEBORAH GIST, CLIFFORD B. JANEY, MICHELLE RHEE. (Copeland, Chad) (Entered: 09/30/2011)
09/30/2011	281	Memorandum in opposition to re 271 MOTION to Certify Class filed by DISTRICT OF COLUMBIA, DEBORAH GIST, CLIFFORD B. JANEY, MICHELLE RHEE. (Copeland, Chad) (Entered: 09/30/2011)
10/03/2011	282	Consent MOTION for Extension of Time to File Response/Reply in Support of Plaintiffs' Motion for Leave to File Their <i>Second Amended Complaint</i> and in Support of Plaintiffs' Motion for Class Re-certification by LEAH BLAND, DORIS COCKRELL, FREDERICK DAVY, MONICA DAVY, DC, DL, FD, TAMEKA FORD, HW, JB, TIMOTHY LANTRY, DARWIN LAZO, ARLETTE MANKEMI, ANGELIQUE MOORE, OUL, KERIANNE PIESTER, TF, TL, ELIZABETH UMANA-LAZO, RONALD WISOR, XY, BRYAN YOUNG, TAMMIKA YOUNG (Attachments: # 1 Memorandum in Support, # 2 Text of Proposed Order)(Terris, Bruce) (Entered: 10/03/2011)
10/06/2011	283	ORDER granting 282 Motion for Extension of Time to File Reply. FURTHER ORDERED Plaintiff's Reply in Support of Plaintiffs' Motion for Leave to File Their <i>Second Amended Complaint</i> and in Support of Plaintiffs' Motion for Class Re-certification due by 10/18/2011.. Signed by Chief Judge Royce C. Lamberth on 10/5/11. (rje,) (Entered: 10/06/2011)
10/14/2011	284	NOTICE OF WITHDRAWAL OF APPEARANCE as to DISTRICT OF COLUMBIA, DEBORAH GIST, CLIFFORD B. JANEY, MICHELLE RHEE. Attorney Caroline B. Hutton terminated. (Hutton, Caroline) (Entered: 10/14/2011)
10/18/2011	285	REPLY to opposition to motion re 271 MOTION to Certify Class filed by LEAH BLAND,

		DORIS COCKRELL, FREDERICK DAVY, MONICA DAVY, DC, DL, TAMEKA FORD, HW, JB, TIMOTHY LANTRY, DARWIN LAZO, ARLETTE MANKEMI, ANGELIQUE MOORE, OUL, KERIANNE PIESTER, TF, TL, ELIZABETH UMANA-LAZO, RONALD WISOR, XY, BRYAN YOUNG, TAMMIKA YOUNG. (Attachments: # 1 Exhibit, # 2 Exhibit, # 3 Exhibit, # 4 Exhibit, # 5 Exhibit)(Terris, Bruce) (Entered: 10/18/2011)
10/18/2011	286	REPLY to opposition to motion re 270 MOTION for Leave to File filed by LEAH BLAND, DORIS COCKRELL, FREDERICK DAVY, MONICA DAVY, DC, DL, FD, TAMEKA FORD, HW, JB, TIMOTHY LANTRY, DARWIN LAZO, ARLETTE MANKEMI, ANGELIQUE MOORE, OUL, KERIANNE PIESTER, TF, TL, ELIZABETH UMANA-LAZO, RONALD WISOR, XY, BRYAN YOUNG, TAMMIKA YOUNG. (Attachments: # 1 Exhibit, # 2 Exhibit, # 3 Exhibit, # 4 Exhibit)(Terris, Bruce) (Entered: 10/18/2011)
10/25/2011	287	MEMORANDUM AND ORDER granting in part and denying in part 255 plaintiffs' Motion for Leave to Re-Open the Record and to Admit Additional Exhibits. Signed by Chief Judge Royce C. Lamberth on October 25, 2011. (lcrcl4) (Entered: 10/25/2011)
11/04/2011	288	MOTION for Leave to File <i>Surreplies</i> by DISTRICT OF COLUMBIA, DEBORAH GIST, CLIFFORD B. JANEY, MICHELLE RHEE (Attachments: # 1 Exhibit Defendants' Surreply in Further Opposition to Plaintiffs' Motion for Leave to File Their Second Amended Complaint, # 2 Exhibit Defendants' Surreply in Further Opposition to Plaintiffs' Motion for Re-Certification)(Copeland, Chad) (Entered: 11/04/2011)
11/04/2011	289	Consent MOTION for Leave to File <i>Contrary Evidence</i> by DISTRICT OF COLUMBIA, DEBORAH GIST, CLIFFORD B. JANEY, MICHELLE RHEE (Attachments: # 1 Exhibit Ex. 172 - Declaration of Nathaniel Beers, # 2 Exhibit Ex. 173 - Declaration of Maxine Freund, # 3 Exhibit Ex. 174 - Data Table Reflecting the Number of Children Served Under IDEA) (Copeland, Chad) (Entered: 11/04/2011)
11/14/2011	290	MOTION for Leave to File <i>Sur-sur-reply briefs</i> by LEAH BLAND, DORIS COCKRELL, FREDERICK DAVY, MONICA DAVY, DC, DL, FD, TAMEKA FORD, HW, JB, TIMOTHY LANTRY, DARWIN LAZO, ARLETTE MANKEMI, ANGELIQUE MOORE, OUL, KERIANNE PIESTER, TF, TL, ELIZABETH UMANA-LAZO, RONALD WISOR, XY, BRYAN YOUNG, TAMMIKA YOUNG (Attachments: # 1 Text of Proposed Order, # 2 Pl. Sur-sur-reply in support of motion to recertify class, # 3 Pl Sur-sur-reply in support of motion to amend)(Terris, Bruce) (Entered: 11/14/2011)
11/14/2011	291	Memorandum in opposition to re 289 Consent MOTION for Leave to File <i>Contrary Evidence</i> filed by LEAH BLAND, DORIS COCKRELL, FREDERICK DAVY, MONICA DAVY, DC, DL, FD, TAMEKA FORD, HW, JB, TIMOTHY LANTRY, DARWIN LAZO, ARLETTE MANKEMI, ANGELIQUE MOORE, OUL, KERIANNE PIESTER, TF, TL, ELIZABETH UMANA-LAZO, RONALD WISOR, XY, BRYAN YOUNG, TAMMIKA YOUNG. (Attachments: # 1 Text of Proposed Order)(Terris, Bruce) (Entered: 11/14/2011)
11/14/2011	292	Memorandum in opposition to re 288 MOTION for Leave to File <i>Surreplies</i> filed by LEAH BLAND, DORIS COCKRELL, FREDERICK DAVY, MONICA DAVY, DC, DL, FD, TAMEKA FORD, HW, JB, TIMOTHY LANTRY, DARWIN LAZO, ARLETTE MANKEMI, ANGELIQUE MOORE, OUL, KERIANNE PIESTER, TF, TL, ELIZABETH UMANA-LAZO, RONALD WISOR, XY, BRYAN YOUNG, TAMMIKA YOUNG. (Attachments: # 1 Text of Proposed Order)(Terris, Bruce) (Entered: 11/14/2011)
11/14/2011	293	MOTION for Leave to File <i>Rebuttal to Defendants' Post Trial Exhibits</i> by LEAH BLAND, DORIS COCKRELL, FREDERICK DAVY, MONICA DAVY, DC, DL, FD, TAMEKA FORD, HW, JB, TIMOTHY LANTRY, DARWIN LAZO, ARLETTE MANKEMI, ANGELIQUE MOORE, OUL, KERIANNE PIESTER, TF, TL, ELIZABETH UMANA-LAZO, RONALD WISOR, XY, BRYAN YOUNG, TAMMIKA YOUNG (Attachments: # 1 Text of Proposed Order, # 2 Plaintiffs' Rebuttal to Defendants' Post Trial Exhibits, # 3 Exhibit,

		#4 Exhibit, #5 Exhibit, #6 Exhibit, #7 Exhibit, #8 Exhibit, #9 Exhibit, #10 Exhibit, #11 Exhibit)(Terris, Bruce) (Entered: 11/14/2011)
11/16/2011	294	MEMORANDUM OPINION & FINDINGS OF FACT AND CONCLUSIONS OF LAW. Signed by Chief Judge Royce C. Lamberth on November 16, 2011. (lcrcl4) (Entered: 11/16/2011)
11/16/2011	295	ORDER. Signed by Chief Judge Royce C. Lamberth on November 16, 2011. (lcrcl4) (Entered: 11/16/2011)
11/16/2011	296	ORDER granting in part and denying in part 288 defendants' Motion for Leave to File Sur-Replies; denying 290 plaintiffs' Motion for Leave to File Sur-Sur-Replies; granting in part and denying in part 214 defendants' Motion to Decertify the Class; granting 259 plaintiffs' Motion for Leave to File a Sur-Reply; denying without prejudice 270 plaintiffs' Motion for Leave to File a Second Amended Complaint; granting in part and denying in part 271 plaintiffs' Motion for Class Certification. Signed by Chief Judge Royce C. Lamberth on November 16, 2011. (lcrcl4) (Entered: 11/16/2011)
11/16/2011	297	MEMORANDUM OPINION (CLASS ACTION ISSUES). Signed by Chief Judge Royce C. Lamberth on November 16, 2011. (lcrcl4) (Entered: 11/16/2011)
11/16/2011	298	MEMORANDUM AND ORDER denying 289 defendants' Motion for Leave to Re-Open the Record; denying 293 plaintiffs' Motion to Submit Rebuttal. Signed by Chief Judge Royce C. Lamberth on November 16, 2011. (lcrcl4) (Entered: 11/16/2011)
11/16/2011	299	ORDER denying 221 defendants' Motion for Relief from Judgment; granting 261 plaintiffs' Motion for Leave to File a Sur-Reply. Signed by Chief Judge Royce C. Lamberth on November 16, 2011. (lcrcl4) (Entered: 11/16/2011)
11/16/2011	300	SURREPLY to re 214 MOTION Decertification of Class filed by LEAH BLAND, DORIS COCKRELL, FREDERICK DAVY, MONICA DAVY, DC, DL, FD, TAMEKA FORD, HW, JB, TIMOTHY LANTRY, DARWIN LAZO, ARLETTE MANKEMI, ANGELIQUE MOORE, OUL, KERIANNE PIESTER, TF, TL, ELIZABETH UMANA-LAZO, RONALD WISOR, XY, BRYAN YOUNG, TAMMIKA YOUNG. (dr) (Entered: 11/17/2011)
11/16/2011	301	SURREPLY to re 271 MOTION to Certify Class filed by DISTRICT OF COLUMBIA, DEBORAH GIST, CLIFFORD B. JANEY, MICHELLE RHEE. (dr) (Entered: 11/17/2011)
11/29/2011	302	Consent MOTION for Extension of Time to <i>File Plaintiffs' Motion for an Award of Attorneys' Fees and Expenses</i> by LEAH BLAND, DORIS COCKRELL, FREDERICK DAVY, MONICA DAVY, DC, DL, FD, TAMEKA FORD, HW, JB, TIMOTHY LANTRY, DARWIN LAZO, ARLETTE MANKEMI, ANGELIQUE MOORE, OUL, KERIANNE PIESTER, TF, TL, ELIZABETH UMANA-LAZO, RONALD WISOR, XY, BRYAN YOUNG, TAMMIKA YOUNG (Attachments: # 1 Memorandum in Support, # 2 Text of Proposed Order)(Terris, Bruce) (Entered: 11/29/2011)
12/10/2011	305	ORDER granting 302 Motion for Extension of Time to File Plaintiffs' Motion for an Award of Attorneys' Fees and Expenses. Award of Attorney's Fees and Expenses is due by 2/29/2012. Signed by Chief Judge Royce C. Lamberth on 12/9/11. (rje,) (Entered: 12/15/2011)
12/15/2011	303	Consent MOTION for Extension of Time to <i>Meet and Confer</i> by DISTRICT OF COLUMBIA, DEBORAH GIST, CLIFFORD B. JANEY, MICHELLE RHEE (Copeland, Chad) (Entered: 12/15/2011)
12/15/2011	304	NOTICE OF APPEAL as to 299 Order on Motion for Judgment as a Matter of Law, Order on Motion for Leave to File, 298 Order on Motion for Leave to File, 295 Order, 296 Order on Motion for Leave to File,, Order on Motion for Miscellaneous Relief,, Order on Motion to Certify Class,,,,,,,,,,,,, by DISTRICT OF COLUMBIA, MICHELLE RHEE, DEBORAH GIST, CLIFFORD B. JANEY. Fee Status: No Fee Paid. Parties have been notified. (Copeland, Chad) (Entered: 12/15/2011)

Date	Case #	Description
12/16/2011	306	Transmission of the Notice of Appeal, Order Appointed, and Docket Sheet to the Court of Appeals. The Court of Appeals docketing fee was not paid because the fee was an Appeal by the Government re 304 Notice of Appeal. (rdj) (Entered: 12/16/2011)
12/19/2011		MINUTE ORDER granting 303 defendant's Consent Motion to Extend Meet and Confer Period Regarding Proposal for Individualized Relief. The parties shall meet and confer, and present their proposal(s), regarding resolution of the class claims for individualized relief by January 31, 2012. Signed by Chief Judge Royce C. Lamberth on December 19, 2011. (lcrcl4) (Entered: 12/19/2011)
12/19/2011		Set/Reset Deadlines: Parties Meet & Confer Statement due by 1/31/2012. (rje,) (Entered: 12/19/2011)
12/27/2011		USCA Case Number 11-7153 for 304 Notice of Appeal, filed by MICHELLE RHEE, DISTRICT OF COLUMBIA, CLIFFORD B. JANEY, DEBORAH GIST. (mmh) (Entered: 12/29/2011)
01/12/2012	307	MOTION for Reconsideration by DISTRICT OF COLUMBIA, DEBORAH GIST, CLIFFORD B. JANEY, MICHELLE RHEE (Attachments: # 1 Exhibit OSEP Early Childhood Transition FAQs)(Copeland, Chad) (Entered: 01/12/2012)
01/30/2012	308	Consent MOTION for Extension of Time to <i>file opposition to defendants' motion for reconsideration</i> by LEAH BLAND, DORIS COCKRELL, FREDERICK DAVY, MONICA DAVY, DC, DL, FD, TAMEKA FORD, HW, JB, TIMOTHY LANTRY, DARWIN LAZO, ARLETTE MANKEMI, ANGELIQUE MOORE, OUL, KERIANNE PIESTER, TF, TL, ELIZABETH UMANA-LAZO, RONALD WISOR, XY, BRYAN YOUNG, TAMMIKA YOUNG (Attachments: # 1 Memorandum in Support, # 2 Text of Proposed Order)(Terris, Bruce) (Entered: 01/30/2012)
01/31/2012	309	ORDER granting 308 Motion for Extension of Time to file opposition to defendants' motion for reconsideration. Signed by Chief Judge Royce C. Lamberth on 1/30/12. (rje,) (Entered: 01/31/2012)
01/31/2012		Set/Reset Deadlines: Plaintiffs' Opposition due by 2/17/2012. Defendants' Reply due by 3/2/2012. (rje) (Entered: 01/31/2012)
01/31/2012	310	NOTICE of Proposed Decree for Individual Relief by LEAH BLAND, DORIS COCKRELL, FREDERICK DAVY, MONICA DAVY, DC, DL, FD, TAMEKA FORD, HW, JB, TIMOTHY LANTRY, DARWIN LAZO, ARLETTE MANKEMI, ANGELIQUE MOORE, OUL, KERIANNE PIESTER, TF, TL, ELIZABETH UMANA-LAZO, RONALD WISOR, XY, BRYAN YOUNG, TAMMIKA YOUNG re 295 Order (Attachments: # 1 Cover Letter)(Terris, Bruce) (Entered: 01/31/2012)
01/31/2012	311	Consent MOTION for Leave to File <i>Memorandum</i> by JB, TIMOTHY LANTRY, DARWIN LAZO, ARLETTE MANKEMI, ANGELIQUE MOORE, OUL, KERIANNE PIESTER, TF, TL, ELIZABETH UMANA-LAZO, RONALD WISOR, XY, BRYAN YOUNG, TAMMIKA YOUNG (Attachments: # 1 Memorandum in Support, # 2 Text of Proposed Order)(Terris, Bruce) (Entered: 01/31/2012)
02/10/2012	312	MEMORANDUM re 310 Notice (Other), Notice (Other) filed by ANGELIQUE MOORE, JB, TIMOTHY LANTRY, DL, TF, TAMEKA FORD, XY, DC, FD, DARWIN LAZO, BRYAN YOUNG, DORIS COCKRELL, FREDERICK DAVY, TL, TAMMIKA YOUNG, ELIZABETH UMANA-LAZO, LEAH BLAND, HW, OUL, RONALD WISOR, MONICA DAVY, ARLETTE MANKEMI, KERIANNE PIESTER by DISTRICT OF COLUMBIA, DEBORAH GIST, CLIFFORD B. JANEY, MICHELLE RHEE. (Attachments: # 1 Exhibit Blackman-Jones Status Report re Compensatory Education, # 2 Exhibit Salazar Consent Decree)(Copeland, Chad) (Entered: 02/10/2012)
02/10/2012	313	NOTICE of Memorandum in Support of Proposed Decree by LEAH BLAND, DORIS COCKRELL, FREDERICK DAVY, MONICA DAVY, DC, DL, FD, TAMEKA FORD, HW,

		JB, TIMOTHY LANTRY, DARWIN LAZO, ARLETTE MANKEMI, ANGELIQUE MOORE, OUL, KERIANNE PIESTER, TF, TL, ELIZABETH UMANA-LAZO, RONALD WISOR, XY, BRYAN YOUNG, TAMMIKA YOUNG re 311 Consent MOTION for Leave to File <i>Memorandum</i> (Attachments: # 1 Exhibit)(Terris, Bruce) (Entered: 02/10/2012)
02/17/2012	314	Memorandum in opposition to re 307 MOTION for Reconsideration filed by LEAH BLAND, DORIS COCKRELL, FREDERICK DAVY, MONICA DAVY, DC, DL, FD, TAMEKA FORD, HW, JB, TIMOTHY LANTRY, DARWIN LAZO, ARLETTE MANKEMI, ANGELIQUE MOORE, OUL, KERIANNE PIESTER, TF, TL, ELIZABETH UMANA-LAZO, RONALD WISOR, XY, BRYAN YOUNG, TAMMIKA YOUNG. (Attachments: # 1 Text of Proposed Order, # 2 Exhibit, # 3 Exhibit, # 4 Exhibit, # 5 Exhibit, # 6 Exhibit, # 7 Exhibit)(Terris, Bruce) (Entered: 02/17/2012)
02/24/2012	315	Consent MOTION for Extension of Time to <i>file motion for attorney fees and expenses</i> by LEAH BLAND, DORIS COCKRELL, FREDERICK DAVY, MONICA DAVY, DC, DL, FD, TAMEKA FORD, HW, JB, TIMOTHY LANTRY, DARWIN LAZO, ARLETTE MANKEMI, ANGELIQUE MOORE, OUL, KERIANNE PIESTER, TF, TL, ELIZABETH UMANA-LAZO, RONALD WISOR, XY, BRYAN YOUNG, TAMMIKA YOUNG (Attachments: # 1 Memorandum in Support, # 2 Text of Proposed Order)(Terris, Bruce) (Entered: 02/24/2012)
02/27/2012	316	ORDER granting 315 Motion for Extension of Time to file motion for attorney fees and expenses. Signed by Chief Judge Royce C. Lamberth on 2/24/12. (rje) (Entered: 02/29/2012)
02/27/2012		Set/Reset Deadlines: Plaintiffs' Motion due by 4/30/2012. Defendants' Reply in support of defendants' motion for reconsideration due by 3/14/2012. (rje,) (Entered: 02/29/2012)
03/14/2012	317	REPLY to opposition to motion re 307 MOTION for Reconsideration filed by DISTRICT OF COLUMBIA, DEBORAH GIST, CLIFFORD B. JANEY, MICHELLE RHEE. (Copeland, Chad) (Entered: 03/14/2012)
03/16/2012	318	NOTICE by LEAH BLAND, DORIS COCKRELL, FREDERICK DAVY, MONICA DAVY, DC, DL, FD, TAMEKA FORD, HW, JB, TIMOTHY LANTRY, DARWIN LAZO, ARLETTE MANKEMI, ANGELIQUE MOORE, OUL, KERIANNE PIESTER, TF, TL, ELIZABETH UMANA-LAZO, RONALD WISOR, XY, BRYAN YOUNG, TAMMIKA YOUNG re 317 Reply to opposition to Motion (Terris, Bruce) (Entered: 03/16/2012)
03/20/2012	319	ORDER of USCA as to 304 Notice of Appeal, filed by MICHELLE RHEE, DISTRICT OF COLUMBIA, CLIFFORD B. JANEY, DEBORAH GIST ; USCA Case Number 11-715. ORDERED that the motion be granted, and this case be held in abeyance pending further order of the court. (kb) (Entered: 03/21/2012)
04/03/2012		MINUTE ORDER granting nunc pro tunc 311 plaintiffs' Consent Motion for Leave to File. Signed by Chief Judge Royce C. Lamberth on April 3, 2012. (lcrcl4) (Entered: 04/03/2012)
04/05/2012	320	NOTICE by LEAH BLAND, DORIS COCKRELL, FREDERICK DAVY, MONICA DAVY, DC, DL, FD, TAMEKA FORD, HW, JB, TIMOTHY LANTRY, DARWIN LAZO, ARLETTE MANKEMI, ANGELIQUE MOORE, OUL, KERIANNE PIESTER, TF, TL, ELIZABETH UMANA-LAZO, RONALD WISOR, XY, BRYAN YOUNG, TAMMIKA YOUNG re 317 Reply to opposition to Motion (Terris, Bruce) (Entered: 04/05/2012)
04/19/2012	321	Consent MOTION Motion to File Sur-Reply in Opposition to Defendants' Motion for Reconsideration re 317 Reply to opposition to Motion by LEAH BLAND, DORIS COCKRELL, FREDERICK DAVY, MONICA DAVY, DC, DL, FD, TAMEKA FORD, HW, JB, TIMOTHY LANTRY, DARWIN LAZO, ARLETTE MANKEMI, ANGELIQUE MOORE, OUL, KERIANNE PIESTER, TF, TL, ELIZABETH UMANA-LAZO, RONALD WISOR, XY, BRYAN YOUNG, TAMMIKA YOUNG (Attachments: # 1 Exhibit, # 2 Exhibit, # 3 Exhibit)(Terris, Bruce) (Entered: 04/19/2012)
04/25/2012	322	MEMORANDUM AND ORDER, granting plaintiffs' Motion 321 for Leave to File a Sur-Reply and granting in part and denying in part defendants' Motion 307 for Reconsideration.

04/25/2012	323	ORDER amending 295 the Court's November 16, 2011 Final Order. Signed by Chief Judge Royce C. Lamberth on April 25, 2012. (lrc14) (Entered: 04/25/2012)
04/25/2012	324	SURREPLY to re 307 MOTION for Reconsideration filed by LEAH BLAND, DORIS COCKRELL, FREDERICK DAVY, MONICA DAVY, DC, DL, FD, TAMEKA FORD, HW, JB, TIMOTHY LANTRY, DARWIN LAZO, ARLETTE MANKEMI, ANGELIQUE MOORE, OUL, KERIANNE PIESTER, TF, TL, ELIZABETH UMANA-LAZO, RONALD WISOR, XY, BRYAN YOUNG, TAMMIKA YOUNG. (rdj) (Entered: 04/25/2012)
04/30/2012	325	MOTION for Order <i>Attorneys Fees</i> by LEAH BLAND, DORIS COCKRELL, FREDERICK DAVY, MONICA DAVY, DC, DL, FD, TAMEKA FORD, HW, JB, TIMOTHY LANTRY, DARWIN LAZO, ARLETTE MANKEMI, ANGELIQUE MOORE, OUL, KERIANNE PIESTER, TF, TL, ELIZABETH UMANA-LAZO, RONALD WISOR, XY, BRYAN YOUNG, TAMMIKA YOUNG (Attachments: # 1 Memorandum in Support, # 2 Text of Proposed Order, # 3 Exhibit Affidavit of Bruce J. Terris, # 4 Exhibit TPM Timekeepers Chart, # 5 Exhibit Resumes for Attorneys, # 6 Exhibit Legal Servicing INdex, # 7 Exhibit Laffey Matrix Updated, # 8 Exhibit Summary of Fees and Expenses, # 9 Exhibit Summary of Time by Category for Main Case, # 10 Exhibit Time Records by Category for Main Case, # 11 Exhibit Summary of Remaining Fees Sought from 2008 MTC Fees Petition, # 12 Exhibit Remaining Time Records in 2008 MTC Fees Petition, # 13 Exhibit Time Records by Category for 2008 MTC Fees Petition, # 14 Exhibit Summary of Expenses, # 15 Exhibit Computerized Expense Records, # 16 Exhibit No Charge Time Records by Category, # 17 Exhibit No Charge Expense Records, # 18 Exhibit Affidavit of Jeffrey Gutman, # 19 Exhibit Affidavit of Margaret Kohn, # 20 Exhibit Affidavit of Carl Dunst, # 21 Exhibit Affidavit of Leonard Cupingood, # 22 Exhibit Jeffrey Gutman Resume, # 23 Exhibit Margaret A. Kohn Resume, # 24 Exhibit Tablonski, Both & Edelman Website, # 25 Exhibit Affidavit of L. Thomas Galloway, # 26 Exhibit Intentionally Left Blank, # 27 Exhibit Rate of Change in Washington, D.C., # 28 Exhibit Affidavit of Laura Campbell, # 29 Exhibit National Law Journal Rates Survey for 1996, # 30 Exhibit National Law Journal Rates Survey for 2011, # 31 Exhibit Laffey Matrix Updated, # 32 Exhibit Affidavit of Michael Kavanaugh, # 33 Exhibit Affidavit of Alexander Karam, # 34 Exhibit BLS Checklist, # 35 Exhibit 1989 NLJ Survey, # 36 Exhibit 2007 NLJ Survey, # 37 Exhibit 2008 NLJ Survey, # 38 Exhibit Comparison of Rate of Change in Billing, # 39 Exhibit 1989 Average Rates by City, # 40 Exhibit 2007 Average Rates by City, # 41 Exhibit 2008 Average Rates by City, # 42 Exhibit Affidavit of Benjamin Koppenheffer)(Terris, Bruce) (Entered: 04/30/2012)
04/30/2012	326	Notice of Additional Exhibits re 325 Motion for <i>Attorneys' Fees</i> by LEAH BLAND, DORIS COCKRELL, FREDERICK DAVY, MONICA DAVY, DC, DL, FD, TAMEKA FORD, HW, JB, TIMOTHY LANTRY, DARWIN LAZO, ARLETTE MANKEMI, ANGELIQUE MOORE, OUL, KERIANNE PIESTER, TF, TL, ELIZABETH UMANA-LAZO, RONALD WISOR, XY, BRYAN YOUNG, TAMMIKA YOUNG (Attachments: # 1 Exhibit Okeefe Affidavit, # 2 Exhibit Appendix B to Local Rules for the US District Court for the District of Columbia, # 3 Exhibit Testimony of Ward Bower, # 4 Exhibit Webster Affidavit, # 5 Exhibit Intentionally Left Blank, # 6 Exhibit Altman Weil Survey, # 7 Exhibit Hourly Billing: Its Business as Usual - Report to Legal Management, # 8 Exhibit Affidavit of William G. Ross, # 9 Exhibit Affidavit of Daniel Rezneck, # 10 Exhibit Data Underlying Laffey Matrix, # 11 Exhibit 1982 Martindale Hubbell Directory Listings, # 12 Exhibit Yablonski Declaration, # 13 Exhibit Emails Regarding ALtman Weil Survey, # 14 Exhibit Declaration of Stephen Braga, # 15 Exhibit Supplemental Declaration of John Falstad, # 16 Exhibit 2007-2008 Average Firm Billing Rates, # 17 Exhibit Comparison of Plaintiffs' LSI Updated Laffey Matrix, # 18 Exhibit Email from Shiva Balkaram, # 19 Exhibit Legal Billing Report May 2008, # 20 Exhibit Legal Billing Report August 2008, # 21 Exhibit Legal Billing Report, December 2008, # 22 Exhibit Declaration of Marc Fleishaker, # 23 Exhibit Third Interim Application of Arnold & Porter, # 24 Exhibit Declaration of Stephen Braga, # 25 Exhibit Affidavit of Peter Kadzik, # 26 Exhibit Affidavit of Donald Enright, # 27 Exhibit Declaration of Eli Gottesdiener, # 28 Exhibit Declaration of Philip Evans, # 29 Exhibit Declaration of David DeBruin, # 30 Exhibit

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		Declaration of Steven Metallitz, # 32 Exhibit Declaration of Jane Ryan, # 33 Exhibit Summary Sheet Regarding Itemization of Services by Stinson, # 33 Exhibit Affidavit of Andrew Boone, # 34 Exhibit Declaration of Steven Davidson, # 35 Exhibit Declaration of Robert Podgursky, # 36 Exhibit Affidavit of Nathan Lewin, # 37 Exhibit Affidavit of Michael Downey, # 38 Exhibit Affidavit of Bruce MacEwen)(Terris, Bruce) Modified on 5/1/2012 to correct the event(rdj). (Entered: 04/30/2012)
05/08/2012	327	ENTERED IN ERROR.....NOTICE of Appeal by DISTRICT OF COLUMBIA, DEBORAH GIST, CLIFFORD B. JANEY, MICHELLE RHEE re 323 Order, 322 Memorandum & Opinion, 295 Order (Copeland, Chad) Modified on 5/9/2012 (rdj). (Entered: 05/08/2012)
05/08/2012	328	NOTICE OF APPEAL as to 323 Order, 322 Memorandum & Opinion, 295 Order by DISTRICT OF COLUMBIA, DEBORAH GIST, CLIFFORD B. JANEY, MICHELLE RHEE. Filing fee \$ 0.00. Fee Status: No Fee Paid. Parties have been notified. (rdj) (Entered: 05/09/2012)
05/09/2012		NOTICE OF CORRECTED DOCKET ENTRY: re 327 Notice (Other) was entered in error as incorrect event and was refiled by the Clerk's Office as 328 Notice of Appeal. (rdj) (Entered: 05/09/2012)
05/09/2012	329	Transmission of the Notice of Appeal, Order Appealed, and Docket Sheet to US Court of Appeals. The Court of Appeals docketing fee was not paid because the fee was an Appeal by the Government re 328 Notice of Appeal. (rdj) (Entered: 05/09/2012)
05/11/2012	330	MOTION to Hold in Abeyance re 325 MOTION for Order <i>Attorneys Fees or, in the Alternative, Motion for Enlargment of Time to Oppose</i> by DISTRICT OF COLUMBIA, DEBORAH GIST, CLIFFORD B. JANEY, MICHELLE RHEE (Copeland, Chad). Added MOTION for Extension of Time to File Response/Reply on 5/14/2012 (rdj). (Counsel is instructed to docket all parts of the motion in the future) (Entered: 05/11/2012)
05/15/2012	331	NOTICE pertaining to Plaintiffs' statement of consent by DISTRICT OF COLUMBIA, DEBORAH GIST, CLIFFORD B. JANEY, MICHELLE RHEE re 330 MOTION to Hold in Abeyance re 325 MOTION for Order <i>Attorneys Fees or, in the Alternative, Motion for Enlargment of Time to Oppose</i> MOTION to Hold in Abeyance re 325 MOTION for Order <i>Attorneys Fees or, in the Alternative, Motion for Enlargment of Time to Oppose</i> MOTION for Extension of Time to File Response/Reply (Copeland, Chad) (Entered: 05/15/2012)
05/21/2012		USCA Case Number 12-7042 for 328 Notice of Appeal filed by MICHELLE RHEE, DISTRICT OF COLUMBIA, CLIFFORD B. JANEY, DEBORAH GIST. (rdj) (Entered: 05/21/2012)
05/23/2012	332	Memorandum in opposition to re 330 MOTION to Hold in Abeyance re 325 MOTION for Order <i>Attorneys Fees or, in the Alternative, Motion for Enlargment of Time to Oppose</i> MOTION for Extension of Time to File Response/Reply MOTION to Hold in Abeyance re 325 MOTION for Order <i>Attorneys Fees or, in the Alternative, Motion for Enlargment of Time to Oppose Defendants' Motion to Hold In Abeyance Plaintiffs' Motion for Attorneys' Fees</i> filed by LEAH BLAND, DORIS COCKRELL, FREDERICK DAVY, MONICA DAVY, DC, DL, FD, TAMEKA FORD, HW, JB, TIMOTHY LANTRY, DARWIN LAZO, ARLETTE MANKEMI, ANGELIQUE MOORE, OUL, KERIANNE PIESTER, TF, TL, ELIZABETH UMANA-LAZO, RONALD WISOR, XY, BRYAN YOUNG, TAMMIKA YOUNG. (Attachments: # 1 Text of Proposed Order)(Terris, Bruce) (Entered: 05/23/2012)
06/01/2012	333	NOTICE of Filing by DISTRICT OF COLUMBIA, DEBORAH GIST, CLIFFORD B. JANEY, MICHELLE RHEE re 322 Memorandum & Opinion, 295 Order (Attachments: # 1 Exhibit DEFENDANTS JUNE 1, 2012 REPORT ON PROGRAMMATIC REQUIREMENTS)(Copeland, Chad) (Entered: 06/01/2012)
06/04/2012	334	REPLY to opposition to motion re 330 MOTION to Hold in Abeyance re 325 MOTION for Order <i>Attorneys Fees or, in the Alternative, Motion for Enlargment of Time to Oppose</i> MOTION for Extension of Time to File Response/Reply MOTION to Hold in Abeyance re

		325 MOTION for Order <i>Attorneys Fees or, in the Alternative, Motion for Enlargment of Time to Oppose</i> filed by DISTRICT OF COLUMBIA, DEBORAH GIST, CLIFFORD B. JANEY, MICHELLE RHEE. (Copeland, Chad) (Entered: 06/04/2012)
06/06/2012	335	Consent MOTION for Leave to File <i>Sur-reply brief</i> by LEAH BLAND, DORIS COCKRELL, FREDERICK DAVY, MONICA DAVY, DC, DL, FD, TAMEKA FORD, HW, JB, TIMOTHY LANTRY, DARWIN LAZO, ARLETTE MANKEMI, ANGELIQUE MOORE, OUL, KERIANNE PIESTER, TF, TL, ELIZABETH UMANA-LAZO, RONALD WISOR, XY, BRYAN YOUNG, TAMMIKA YOUNG (Attachments: # 1 Memorandum in Support, # 2 Text of Proposed Order)(Terris, Bruce) (Entered: 06/06/2012)
07/09/2012	336	ORDER granting in part and denying in part 330 Order on Motion to Hold in Abeyance; granting 330 Motion for Extension of Time to File their Opposition to plaintiff's Motion for Attorney's Fees. The Opposition is due on or before August 15, 2012. Signed by Chief Judge Royce C. Lamberth on July 9, 2012. (lcrcl4) (Entered: 07/09/2012)
07/09/2012	337	ORDER granting 335 Motion for Leave to File a Sur-Reply to defendant's Reply in further support of their Motion to Hold in Abeyance Briefing on plaintiffs' Motion for Attorneys' Fees pending appeal, or in the Alternative, Motion for Extension for time to Oppose. The Sur-Reply, submitted to the Court as plaintiffs' exhibit 1 [335-1] is deemed filed. Signed by Chief Judge Royce C. Lamberth on July 9, 2012. (lcrcl4) (Entered: 07/09/2012)
07/09/2012	338	SURREPLY to re 330 MOTION to Hold in Abeyance re 325 MOTION for Order <i>Attorneys Fees or, in the Alternative, Motion for Enlargment of Time to Oppose</i> MOTION for Extension of Time to File Response/Reply filed by LEAH BLAND, DORIS COCKRELL, FREDERICK DAVY, MONICA DAVY, DC, DL, FD, TAMEKA FORD, HW, JB, TIMOTHY LANTRY, DARWIN LAZO, ARLETTE MANKEMI, ANGELIQUE MOORE, OUL, KERIANNE PIESTER, TF, TL, ELIZABETH UMANA-LAZO, RONALD WISOR, XY, BRYAN YOUNG, TAMMIKA YOUNG. (rdj) (Entered: 07/10/2012)
07/10/2012		Set/Reset Deadlines: Opposition due by 8/15/2012. (rje) (Entered: 07/10/2012)
07/25/2012	339	Consent MOTION for Briefing Schedule of <i>Plaintiffs' Application for Attorneys' Fees</i> by LEAH BLAND, DORIS COCKRELL, FREDERICK DAVY, MONICA DAVY, DC, DL, FD, TAMEKA FORD, HW, JB, TIMOTHY LANTRY, DARWIN LAZO, ARLETTE MANKEMI, ANGELIQUE MOORE, OUL, KERIANNE PIESTER, TF, TL, ELIZABETH UMANA-LAZO, RONALD WISOR, XY, BRYAN YOUNG, TAMMIKA YOUNG (Attachments: # 1 Text of Proposed Order)(Terris, Bruce) (Entered: 07/25/2012)
07/26/2012	340	ORDER granting 339 Motion for Briefing Schedule. Defendant's Opposition brief is due on or before September 4, 2012; expert depositions, if needed, must be completed on or before September 20, 2012; plaintiff's Reply brief is due on or before October 4, 2012. SO ORDERED.Signed by Chief Judge Royce C. Lamberth on July 24, 2012. (lcrcl4) (Entered: 07/26/2012)
08/02/2012		Set/Reset Deadlines: Defendant's Opposition due by 9/4/2012. Expert Depositions due by 10/20/2012. Plaintiff's Reply due by 10/4/2012. (rje) (Entered: 08/02/2012)
08/21/2012	341	NOTICE of <i>Filing Revised Plaintiffs' Exhibit 2</i> by LEAH BLAND, FREDERICK DAVY, MONICA DAVY, DL, FD, TAMEKA FORD, HW, JB, TIMOTHY LANTRY, ARLETTE MANKEMI, ANGELIQUE MOORE, KERIANNE PIESTER, TF, TL, RONALD WISOR, XY, BRYAN YOUNG, TAMMIKA YOUNG re 325 MOTION for Order <i>Attorneys Fees</i> (Attachments: # 1 Exhibit Revised Pl. Ex. 2)(Terris, Bruce) (Entered: 08/21/2012)
08/31/2012	342	NOTICE of Appearance by Matthew Robert Blecher on behalf of All Defendants (Blecher, Matthew) (Entered: 08/31/2012)
09/04/2012	343	Memorandum in opposition to re 325 MOTION for Order <i>Attorneys Fees</i> filed by DISTRICT OF COLUMBIA, DEBORAH GIST, CLIFFORD B. JANEY, MICHELLE RHEE. (Attachments: # 1 Text of Proposed Order Proposed Order, # 2 Exhibit Exhibit A - TPM

		Block Billing, # 4 Exhibit Exhibit B - TPM Vague Billing, # 4 Exhibit Exhibit C - TPM Duplicate Entries, # 5 Exhibit D - Objections to Billing for Margaret Kohn, # 6 Exhibit Exhibit E - Dunst Trial Testimony)(Copeland, Chad) (Entered: 09/04/2012)
10/01/2012	344	Unopposed MOTION for Leave to File Excess Pages in <i>Plaintiffs' Reply Brief in Support of Fee Application</i> by LEAH BLAND, DORIS COCKRELL, FREDERICK DAVY, MONICA DAVY, DC, DL, FD, TAMEKA FORD, HW, JB, TIMOTHY LANTRY, DARWIN LAZO, ARLETTE MANKEMI, ANGELIQUE MOORE, OUL, KERIANNE PIESTER, TF, TL, ELIZABETH UMANA-LAZO, RONALD WISOR, XY, BRYAN YOUNG, TAMMIKA YOUNG (Attachments: # 1 Text of Proposed Order)(Terris, Bruce) (Entered: 10/01/2012)
10/01/2012	345	ORDER granting 344 Motion for Leave to File Excess Pages. Signed by Chief Judge Royce C. Lamberth on 10/01/2012. (lcrcl4) (Entered: 10/01/2012)
10/04/2012	346	MOTION for Extension of Time to File Response/Reply as to 325 MOTION for Order <i>Attorneys Fees by One Day</i> by LEAH BLAND, DORIS COCKRELL, FREDERICK DAVY, MONICA DAVY, DC, DL, FD, TAMEKA FORD, HW, JB, TIMOTHY LANTRY, DARWIN LAZO, ARLETTE MANKEMI, ANGELIQUE MOORE, OUL, KERIANNE PIESTER, TF, TL, ELIZABETH UMANA-LAZO, RONALD WISOR, XY, BRYAN YOUNG, TAMMIKA YOUNG (Attachments: # 1 Text of Proposed Order)(Terris, Bruce) (Entered: 10/04/2012)
10/05/2012	347	ORDER granting 346 Motion for Extension of Time to File Reply re 325 MOTION for Order <i>Attorneys Fees</i> . Reply due by 10/5/2012. Signed by Chief Judge Royce C. Lamberth on 10/05/2012. (lcrcl4) (Entered: 10/05/2012)
10/05/2012	348	REPLY to opposition to motion re 325 MOTION for Order <i>of Attorneys' Fees and Relates Expenses</i> filed by LEAH BLAND, DORIS COCKRELL, FREDERICK DAVY, MONICA DAVY, DC, DL, FD, TAMEKA FORD, HW, JB, TIMOTHY LANTRY, DARWIN LAZO, ARLETTE MANKEMI, ANGELIQUE MOORE, OUL, KERIANNE PIESTER, TF, TL, ELIZABETH UMANA-LAZO, RONALD WISOR, XY, BRYAN YOUNG, TAMMIKA YOUNG. (Attachments: # 1 Text of Proposed Order, # 2 Exhibit PI Revised Ex 8 -- Time Records with 3 Decimals, # 3 Exhibit PI Ex 79 Second Terris Affidavit, # 4 Exhibit PI Ex 80 WV Law Firm Pullin, # 5 Exhibit PI Ex 81 WV Law Firm Cordell, # 6 Exhibit PI Ex 82 WV Law Firm Hamstead, # 7 Exhibit PI Ex 83 WV Law Firm McCune, # 8 Exhibit PI Ex 84 WV Law Firm Burke, # 9 Exhibit PI Ex 85 WV Law Firm Martin, # 10 Exhibit PI Ex 86 WV Law Firm Boyce, # 11 Exhibit PI Ex 87 Second Gutman Affidavit, # 12 Exhibit PI Ex 88 Second Kohn Affidavit, # 13 Exhibit PI Ex 89 TPM Deductions, # 14 Exhibit PI Ex 90 Rebuttal to Def Ex D, # 15 Exhibit PI Ex 91 Outbind Printing Expenses, # 16 Exhibit PI Ex 92 Letter to Rezneck, # 17 Exhibit PI Ex 93 Co-counsel Deductions, # 18 Exhibit PI Ex 94 Summary of Retainer Work)(Terris, Bruce) Modified on 10/9/2012 to correct linnkage (rdj). (Entered: 10/05/2012)
10/26/2012	349	MOTION for Leave to File <i>Sur-Reply in Further Opposition to Plaintiffs' Motion for Attorneys' Fees</i> by DISTRICT OF COLUMBIA, DEBORAH GIST, CLIFFORD B. JANEY, MICHELLE RHEE (Attachments: # 1 Exhibit Proposed Sur-Reply)(Copeland, Chad) (Entered: 10/26/2012)
10/26/2012	350	NOTICE of Appearance by Todd A. Gluckman on behalf of All Plaintiffs (Gluckman, Todd) (Entered: 10/26/2012)
10/26/2012	351	MOTION Oral Argument re 325 MOTION for Order <i>Attorneys Fees</i> , 326 MOTION for Order <i>of Attorneys' Fees</i> by LEAH BLAND, DORIS COCKRELL, FREDERICK DAVY, MONICA DAVY, DC, DL, FD, TAMEKA FORD, HW, JB, TIMOTHY LANTRY, DARWIN LAZO, ARLETTE MANKEMI, ANGELIQUE MOORE, OUL, KERIANNE PIESTER, TF, TL, ELIZABETH UMANA-LAZO, RONALD WISOR, XY, BRYAN YOUNG, TAMMIKA YOUNG (Gluckman, Todd) (Entered: 10/26/2012)
11/05/2012	352	Memorandum in opposition to re 351 MOTION Oral Argument re 325 MOTION for Order <i>Attorneys Fees</i> , 326 MOTION for Order <i>of Attorneys' Fees</i> filed by DISTRICT OF

		COLUMBIA, DEBORAH GIST, CLIFFORD B. JANEY, MICHELLE RHEE (Copeland, Chad) (Entered: 11/05/2012)
11/13/2012	353	Memorandum in opposition to re 349 MOTION for Leave to File <i>Sur-Reply in Further Opposition to Plaintiffs' Motion for Attorneys' Fees</i> filed by LEAH BLAND, DORIS COCKRELL, FREDERICK DAVY, MONICA DAVY, DC, DL, FD, TAMEKA FORD, HW, JB, TIMOTHY LANTRY, DARWIN LAZO, ARLETTE MANKEMI, ANGELIQUE MOORE, OUL, KERIANNE PIESTER, TF, TL, ELIZABETH UMANA-LAZO, RONALD WISOR, XY, BRYAN YOUNG, TAMMIKA YOUNG. (Attachments: # 1 Exhibit Plaintiffs' Sur-Sur-Reply in Support of Their Motion for an Award of Litigation Costs, Including Attorneys' Fees and Related Expenses)(Gluckman, Todd) (Entered: 11/13/2012)
11/13/2012	354	Cross MOTION Leave to File a Sur-Sur-Reply in the Event that Defendants Are Permitted a Sur-Reply by LEAH BLAND, DORIS COCKRELL, FREDERICK DAVY, MONICA DAVY, DC, DL, FD, TAMEKA FORD, HW, JB, TIMOTHY LANTRY, DARWIN LAZO, ARLETTE MANKEMI, ANGELIQUE MOORE, OUL, KERIANNE PIESTER, TF, TL, ELIZABETH UMANA-LAZO, RONALD WISOR, XY, BRYAN YOUNG, TAMMIKA YOUNG (Attachments: # 1 Exhibit Plaintiffs' Sur-Sur-Reply in Support of Their Motion for an Award of Litigation Costs, Including Attorneys' Fees and Related Expenses)(Gluckman, Todd) (Entered: 11/13/2012)
11/21/2012	355	REPLY to opposition to motion re 349 MOTION Leave to File a Sur-Reply filed by DISTRICT OF COLUMBIA. (Blecher, Matthew) Modified on 11/21/2012 to correct linkage and enhance text (rdj). (Entered: 11/21/2012)
11/30/2012	356	NOTICE of Filing of Annual Reporting by DISTRICT OF COLUMBIA, DEBORAH GIST, MICHELLE RHEE re 295 Order (Attachments: # 1 Exhibit December 2012 Reporting) (Copeland, Chad) (Entered: 11/30/2012)
06/04/2013	357	NOTICE of Appearance by Jane M. Liu on behalf of All Plaintiffs (Liu, Jane) (Entered: 06/04/2013)
06/04/2013	358	MOTION to Certify Class <i>and for Reinstatement of Findings of Liability and Order Granting Relief</i> by LEAH BLAND, DORIS COCKRELL, FREDERICK DAVY, MONICA DAVY, DC, DL, FD, TAMEKA FORD, HW, JB, TIMOTHY LANTRY, DARWIN LAZO, ARLETTE MANKEMI, ANGELIQUE MOORE, OUL, KERIANNE PIESTER, TF, TL, ELIZABETH UMANA-LAZO, RONALD WISOR, XY, BRYAN YOUNG, TAMMIKA YOUNG (Attachments: # 1 Text of Proposed Order, # 2 Exhibit Pl. Ex. 1, # 3 Exhibit Pl. Ex. 2, # 4 Exhibit Pl. Ex. 3, # 5 Exhibit Pl. Ex. 4, # 6 Exhibit Pl. Ex. 5, # 7 Exhibit Pl. Ex. 6, # 8 Exhibit Pl. Ex. 7, # 9 Exhibit Pl. Ex. 8, # 10 Exhibit Pl. Ex. 9, # 11 Exhibit Pl. Ex. 10, # 12 Exhibit Pl. Ex. 11, # 13 Exhibit Pl. Ex. 12, # 14 Exhibit Pl. Ex. 13, # 15 Exhibit Pl. Ex. 14, # 16 Exhibit Pl. Ex. 15, # 17 Exhibit Pl. Ex. 16, # 18 Exhibit Pl. Ex. 17, # 19 Exhibit Pl. Ex. 18, # 20 Exhibit Pl. Ex. 19)(Terris, Bruce) (Entered: 06/04/2013)
06/04/2013	359	MOTION to Amend/Correct 61 Amended Complaint, by LEAH BLAND, DORIS COCKRELL, FREDERICK DAVY, MONICA DAVY, DC, DL, FD, TAMEKA FORD, HW, JB, TIMOTHY LANTRY, DARWIN LAZO, ARLETTE MANKEMI, ANGELIQUE MOORE, OUL, KERIANNE PIESTER, TF, TL, ELIZABETH UMANA-LAZO, RONALD WISOR, XY, BRYAN YOUNG, TAMMIKA YOUNG (Attachments: # 1 Exhibit PL. Ex. 1 Second Amended Complaint)(Terris, Bruce) (Entered: 06/04/2013)
06/04/2013	360	Emergency MOTION for Hearing by DISTRICT OF COLUMBIA, DEBORAH GIST, CLIFFORD B. JANEY, MICHELLE RHEE (Copeland, Chad) (Entered: 06/04/2013)
06/04/2013	361	MANDATE of USCA (certified copy) as to 304 Notice of Appeal to DC Circuit Court, filed by MICHELLE RHEE, DISTRICT OF COLUMBIA, CLIFFORD B. JANEY, DEBORAH GIST, USCA Case Number 11-7153. ORDERED and ADJUDGED that the order of the District Court appealed from in these causes certifying the class and, consequently, the orders finding liability and ordering relief to that class be vacated, and the case be remanded to the District Court for reconsideration of whether a class, classes, or subclasses may be certified,

		and if so, thereafter to redetermine liability and appropriate relief, in accordance with the opinion of the court filed herein this date. (ds) (Entered: 06/04/2013)
06/04/2013	362	NOTICE of Appearance by Cyrus Mehri on behalf of LEAH BLAND, FREDERICK DAVY, MONICA DAVY, DL, FD, TAMEKA FORD, HW, JB, TIMOTHY LANTRY, ARLETTE MANKEMI, ANGELIQUE MOORE, KERIANNE PIESTER, TF, TL, RONALD WISOR, XY, BRYAN YOUNG, TAMMIKA YOUNG (Mehri, Cyrus) (Entered: 06/04/2013)
06/05/2013	363	Memorandum in opposition to re 360 Emergency MOTION for Hearing filed by LEAH BLAND, DORIS COCKRELL, FREDERICK DAVY, MONICA DAVY, DC, DL, FD, TAMEKA FORD, HW, JB, TIMOTHY LANTRY, DARWIN LAZO, ARLETTE MANKEMI, ANGELIQUE MOORE, OUL, KERIANNE PIESTER, TF, TL, ELIZABETH UMANA-LAZO, RONALD WISOR, XY, BRYAN YOUNG, TAMMIKA YOUNG. (Terris, Bruce) (Entered: 06/05/2013)
06/10/2013	364	REPLY to opposition to motion re 360 Emergency MOTION for Hearing filed by DISTRICT OF COLUMBIA, DEBORAH GIST, CLIFFORD B. JANEY, MICHELLE RHEE. (Copeland, Chad) (Entered: 06/10/2013)
06/10/2013	365	MOTION to Dismiss for Lack of Jurisdiction by DISTRICT OF COLUMBIA, DEBORAH GIST, CLIFFORD B. JANEY, MICHELLE RHEE (Attachments: # 1 Exhibit Declaration of Anitra Allen-King)(Copeland, Chad) (Entered: 06/10/2013)
06/11/2013	366	MEMORANDUM ORDER denying without prejudice to refile 325 Motion for Order for Attorneys' Fees; finding as moot 349 Motion for Leave to File Sur-Reply; finding as moot 351 Motion for Oral Argument; finding as moot 354 Motion for Leave to File Sur-Sur-Reply; denying 360 Emergency Motion for Hearing. Signed by Chief Judge Royce C. Lamberth on 06/11/2013. (lcrcl4) (Entered: 06/11/2013)
06/13/2013	367	Consent MOTION for Scheduling Order by DISTRICT OF COLUMBIA, DEBORAH GIST, CLIFFORD B. JANEY, MICHELLE RHEE (Copeland, Chad) (Entered: 06/13/2013)
06/13/2013	368	ORDER granting 367 Motion for Scheduling Order. Plaintiffs' opposition to 365 due 07/03/13; defendant's oppositions to 358 & 359 due 07/15/13; defendant's reply in support of 365 due 07/26/13; plaintiffs' replies in support of 358 & 359 due 08/09/13. Signed by Chief Judge Royce C. Lamberth on 06/13/2013. (lcrcl4) (Entered: 06/13/2013)
06/14/2013		Set/Reset Deadlines: Plaintiff's Opposition due by 7/3/2013; Defendant's Opposition due by 7/15/13; Defendant's Reply due by 7/26/2013; Plaintiff's Reply due by 8/9/13. (mpt,) (Entered: 06/14/2013)
07/03/2013	369	Memorandum in opposition to re 365 MOTION to Dismiss for Lack of Jurisdiction filed by LEAH BLAND, FREDERICK DAVY, MONICA DAVY, DL, FD, TAMEKA FORD, HW, JB, TIMOTHY LANTRY, ARLETTE MANKEMI, ANGELIQUE MOORE, KERIANNE PIESTER, TF, TL, RONALD WISOR, XY, BRYAN YOUNG, TAMMIKA YOUNG. (Attachments: # 1 Exhibit Affidavit of Margaret A. Kohn, # 2 Text of Proposed Order)(Liu, Jane) (Entered: 07/03/2013)
07/15/2013	370	Memorandum in opposition to re 358 MOTION to Certify Class <i>and for Reinstatement of Findings of Liability and Order Granting Relief</i> filed by DISTRICT OF COLUMBIA, DEBORAH GIST, CLIFFORD B. JANEY, MICHELLE RHEE. (Attachments: # 1 Exhibit OSSE Report)(Copeland, Chad) (Entered: 07/15/2013)
07/15/2013	371	Memorandum in opposition to re 359 MOTION to Amend/Correct 61 Amended Complaint, filed by DISTRICT OF COLUMBIA, DEBORAH GIST, CLIFFORD B. JANEY, MICHELLE RHEE. (Attachments: # 1 Exhibit OSSE Report)(Copeland, Chad) (Entered: 07/15/2013)
07/26/2013	372	Consent MOTION for Extension of Time to File Response/Reply as to 365 MOTION to Dismiss for Lack of Jurisdiction , 358 MOTION to Certify Class <i>and for Reinstatement of Findings of Liability and Order Granting Relief</i> , 359 MOTION to Amend/Correct 61

		Amended Complaint, MOTION for Leave to File Excess Pages by LEAH BLAND, DORIS COCKRELL, FREDERICK DAVY, MONICA DAVY, DC, DL, FD, TAMEKA FORD, HW, JB, TIMOTHY LANTRY, DARWIN LAZO, ARLETTE MANKEMI, ANGELIQUE MOORE, OUL, KERIANNE PIESTER, TF, TL, ELIZABETH UMANA-LAZO, RONALD WISOR, XY, BRYAN YOUNG, TAMMIKA YOUNG (Attachments: # 1 Text of Proposed Order)(Terris, Bruce) (Entered: 07/26/2013)
07/26/2013	373	REPLY to opposition to motion re 365 MOTION to Dismiss for Lack of Jurisdiction filed by DISTRICT OF COLUMBIA, DEBORAH GIST, CLIFFORD B. JANEY, MICHELLE RHEE. (Copeland, Chad) (Entered: 07/26/2013)
08/09/2013	374	Memorandum in opposition to re 372 Consent MOTION for Extension of Time to File Response/Reply as to 365 MOTION to Dismiss for Lack of Jurisdiction , 358 MOTION to Certify Class <i>and for Reinstatement of Findings of Liability and Order Granting Relief</i> , 359 M MOTION for Leave to File Excess Pages filed by DISTRICT OF COLUMBIA, DEBORAH GIST, CLIFFORD B. JANEY, MICHELLE RHEE. (Copeland, Chad) (Entered: 08/09/2013)
08/13/2013	375	ORDER granting 372 Motion for Extension of Time to File Response/Reply; granting 372 Motion for Leave to File Excess Pages. Signed by Judge Royce C. Lamberth on 08/13/2013. (lcrcl4) (Entered: 08/13/2013)
08/13/2013	376	MOTION for Leave to File SURREPLY to re 365 MOTION to Dismiss for Lack of Jurisdiction filed by LEAH BLAND, FREDERICK DAVY, MONICA DAVY, DL, FD, TAMEKA FORD, HW, JB, TIMOTHY LANTRY, ARLETTE MANKEMI, ANGELIQUE MOORE, KERIANNE PIESTER, TF, TL, RONALD WISOR, XY, BRYAN YOUNG, TAMMIKA YOUNG. (Attachments: # 1 Text of Proposed Order Proposed Order, # 2 Exhibit Pl. Ex. 1 - Sur-Reply Brief)(Terris, Bruce) Modified on 8/19/2013 to correct event(rdj). (Entered: 08/13/2013)
08/14/2013	377	NOTICE OF SUPPLEMENTAL AUTHORITY by DISTRICT OF COLUMBIA, DEBORAH GIST, MICHELLE RHEE (Attachments: # 1 Exhibit In re: Rail Freight Fuel Surcharge Antitrust Litigaiton)(Copeland, Chad) (Entered: 08/14/2013)
08/14/2013	378	NOTICE OF SUPPLEMENTAL AUTHORITY by DISTRICT OF COLUMBIA, DEBORAH GIST, MICHELLE RHEE (Attachments: # 1 Exhibit Affidavit of Bruce J. Terris)(Copeland, Chad) (Entered: 08/14/2013)
08/14/2013	379	REPLY to opposition to motion re 358 MOTION to Certify Class <i>and for Reinstatement of Findings of Liability and Order Granting Relief</i> filed by LEAH BLAND, FREDERICK DAVY, MONICA DAVY, DL, FD, TAMEKA FORD, HW, JB, TIMOTHY LANTRY, ARLETTE MANKEMI, ANGELIQUE MOORE, KERIANNE PIESTER, TF, TL, RONALD WISOR, XY, BRYAN YOUNG, TAMMIKA YOUNG. (Attachments: # 1 Exhibit Pl. Ex. 1) (Liu, Jane) (Entered: 08/14/2013)
08/14/2013	380	REPLY to opposition to motion re 359 MOTION to Amend/Correct 61 Amended Complaint, filed by LEAH BLAND, DORIS COCKRELL, FREDERICK DAVY, MONICA DAVY, DC, DL, FD, TAMEKA FORD, HW, JB, TIMOTHY LANTRY, DARWIN LAZO, ARLETTE MANKEMI, ANGELIQUE MOORE, OUL, KERIANNE PIESTER, TF, TL, ELIZABETH UMANA-LAZO, RONALD WISOR, XY, BRYAN YOUNG, TAMMIKA YOUNG. (Terris, Bruce) (Entered: 08/14/2013)
08/19/2013	381	Memorandum in opposition to re 376 MOTION for Leave to File <i>A Sur-Reply re Defendants' Motion to Dismiss</i> filed by DISTRICT OF COLUMBIA, DEBORAH GIST, CLIFFORD B. JANEY, MICHELLE RHEE. (Copeland, Chad) (Entered: 08/19/2013)
08/19/2013	382	RESPONSE re 377 NOTICE OF SUPPLEMENTAL AUTHORITY, 378 NOTICE OF SUPPLEMENTAL AUTHORITY filed by LEAH BLAND, FREDERICK DAVY, MONICA DAVY, DL, FD, TAMEKA FORD, HW, JB, TIMOTHY LANTRY, ARLETTE MANKEMI,

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 ANGELIQUE MOORE, KERIANNE PIESTER, TF, TL, RONALD WISOR, XY, BRYAN YOUNG, TAMMIKA YOUNG. (Liu, Jane) (Entered: 08/19/2013)

08/27/2013	383	MOTION for Leave to File <i>Sur-Reply</i> by DISTRICT OF COLUMBIA, DEBORAH GIST, CLIFFORD B. JANEY, MICHELLE RHEE (Attachments: # 1 Exhibit Sur-Reply)(Copeland, Chad) (Entered: 08/27/2013)
08/30/2013	384	Memorandum in opposition to re 383 MOTION for Leave to File <i>Sur-Reply</i> filed by LEAH BLAND, FREDERICK DAVY, MONICA DAVY, DL, FD, TAMEKA FORD, HW, JB, TIMOTHY LANTRY, ARLETTE MANKEMI, ANGELIQUE MOORE, KERIANNE PIESTER, TF, TL, RONALD WISOR, XY, BRYAN YOUNG, TAMMIKA YOUNG. (Liu, Jane) (Entered: 08/30/2013)
09/10/2013	385	NOTICE OF SUPPLEMENTAL AUTHORITY by LEAH BLAND, FREDERICK DAVY, MONICA DAVY, DL, FD, TAMEKA FORD, HW, JB, TIMOTHY LANTRY, ARLETTE MANKEMI, ANGELIQUE MOORE, KERIANNE PIESTER, TF, TL, RONALD WISOR, XY, BRYAN YOUNG, TAMMIKA YOUNG (Attachments: # 1 Exhibit Exhibit 1, # 2 Exhibit Exhibit 2)(Terris, Bruce) (Entered: 09/10/2013)
09/19/2013	386	RESPONSE re 385 NOTICE OF SUPPLEMENTAL AUTHORITY, filed by DISTRICT OF COLUMBIA. (Blecher, Matthew) (Entered: 09/19/2013)
10/02/2013	387	REPLY re 385 NOTICE OF SUPPLEMENTAL AUTHORITY, filed by LEAH BLAND, DORIS COCKRELL, FREDERICK DAVY, MONICA DAVY, DC, DL, FD, TAMEKA FORD, HW, JB, TIMOTHY LANTRY, DARWIN LAZO, ARLETTE MANKEMI, ANGELIQUE MOORE, OUL, KERIANNE PIESTER, TF, TL, ELIZABETH UMANA-LAZO, RONALD WISOR, XY, BRYAN YOUNG, TAMMIKA YOUNG. (Terris, Bruce) (Entered: 10/02/2013)
11/08/2013	388	ORDER granting in part and denying in part 358 Motion to Certify Class; granting 359 Motion to Amend/Correct; denying 365 Motion to Dismiss for Lack of Jurisdiction. Signed by Judge Royce C. Lamberth on November 8, 2013. (lrcrl4) (Main Document 388 replaced on 11/8/2013) (zmpt,). (Entered: 11/08/2013)
11/08/2013	389	MEMORANDUM AND OPINION granting in part and denying in part 358 Motion to Certify Class; granting 359 Motion to Amend/Correct; denying 365 Motion to Dismiss for Lack of Jurisdiction. Signed by Judge Royce C. Lamberth on November 8, 2013. (lrcrl4) (Main Document 389 replaced on 11/8/2013) (zmpt,). (Entered: 11/08/2013)
11/08/2013	398	AMENDED COMPLAINT against DISTRICT OF COLUMBIA, CLIFFORD B. JANEY filed by BRYAN YOUNG, TF, XY, DL, FREDERICK DAVY, TAMMIKA YOUNG, TIMOTHY LANTRY, JB, ANGELIQUE MOORE, RONALD WISOR, KERIANNE PIESTER, FD, ARLETTE MANKEMI, LEAH BLAND, TAMEKA FORD, HW, MONICA DAVY, TL.(rdj) (Entered: 12/18/2013)
11/12/2013	390	ORDER denying 376 Motion for Leave to File and denying 383 Motion for Leave to File. Signed by Judge Royce C. Lamberth on November 12, 2013. (lrcrl4) (Entered: 11/12/2013)
11/15/2013	391	Consent MOTION for Extension of Time to File Answer to <i>Plaintiffs' Second Amended Complaint</i> by DISTRICT OF COLUMBIA, DEBORAH GIST, CLIFFORD B. JANEY, MICHELLE RHEE (Copeland, Chad) (Entered: 11/15/2013)
11/22/2013	392	ORDER granting defendant's 391 Motion for an Extension of Time, until 12/20/13, to Answer plaintiffs second amended complaint (Signed by Judge Royce C. Lamberth on 11/21/13). (tj) (Entered: 11/22/2013)
11/22/2013	393	NOTICE of Filing of Rule 23(f) Petition with D.C. Circuit by DISTRICT OF COLUMBIA, DEBORAH GIST, MICHELLE RHEE re 388 Order on Motion to Certify Class,, Order on Motion to Amend/Correct,, Order on Motion to Dismiss/Lack of Jurisdiction, 389 Memorandum & Opinion, (Attachments: # 1 Exhibit Rule 23(f) Petition)(Copeland, Chad) (Entered: 11/22/2013)

11/22/2013	394	MOTION to Stay <i>Discovery</i> by DISTRICT OF COLUMBIA, DEBORAH GIST, CLIFFORD B. JANEY (Copeland, Chad) (Entered: 11/22/2013)
12/09/2013	395	STATUS REPORT (<i>JOINT</i>) by LEAH BLAND, FREDERICK DAVY, MONICA DAVY, DL, FD, TAMEKA FORD, HW, JB, TIMOTHY LANTRY, ARLETTE MANKEMI, ANGELIQUE MOORE, KERIANNE PIESTER, TF, TL, RONALD WISOR, XY, BRYAN YOUNG, TAMMIKA YOUNG. (Gluckman, Todd) (Entered: 12/09/2013)
12/09/2013	396	Memorandum in opposition to re 394 MOTION to Stay <i>Discovery</i> filed by LEAH BLAND, DORIS COCKRELL, FREDERICK DAVY, MONICA DAVY, DC, DL, FD, TAMEKA FORD, HW, JB, TIMOTHY LANTRY, DARWIN LAZO, ARLETTE MANKEMI, ANGELIQUE MOORE, OUL, KERIANNE PIESTER, TF, TL, ELIZABETH UMANA-LAZO, RONALD WISOR, XY, BRYAN YOUNG, TAMMIKA YOUNG. (Attachments: # 1 Exhibit Pl. Ex. 1 - Blackman v. District of Columbia, Report of the Monitor for the 2011-2012 School Year)(Gluckman, Todd) (Entered: 12/09/2013)
12/16/2013	397	REPLY to opposition to motion re 394 MOTION to Stay <i>Discovery</i> filed by DISTRICT OF COLUMBIA, DEBORAH GIST, CLIFFORD B. JANEY. (Attachments: # 1 Exhibit)(rdj) (Entered: 12/17/2013)
12/18/2013		Minute Entry; Proceedings held before Judge Royce C. Lamberth: Status Conference held on 12/18/2013. Oral Ruling denying 394 Motion to Stay Discovery. (Court Reporter Theresa Sorensen) (hs) (Entered: 12/18/2013)
12/18/2013	399	NOTICE <i>Regarding This Court's Order, dated December 18, 2013, Denying Defendants' Motion to Stay</i> by LEAH BLAND, FREDERICK DAVY, MONICA DAVY, DL, FD, TAMEKA FORD, HW, JB, TIMOTHY LANTRY, ARLETTE MANKEMI, ANGELIQUE MOORE, KERIANNE PIESTER, TF, TL, RONALD WISOR, XY, BRYAN YOUNG, TAMMIKA YOUNG (Gluckman, Todd) (Entered: 12/18/2013)
12/18/2013	400	ORDER denying defendants' Motion for Stay 394 . Signed by Judge Royce C. Lamberth on December 18, 2013. (lcrcl4) (Entered: 12/18/2013)
12/18/2013	401	ORDER regarding the Parties' Joint Report 395 . Signed by Judge Royce C. Lamberth on December 18, 2013. (lcrcl4) (Entered: 12/18/2013)
12/20/2013	402	<i>Amended</i> ANSWER to 398 Amended Complaint, by DISTRICT OF COLUMBIA, DEBORAH GIST, CLIFFORD B. JANEY, MICHELLE RHEE. Related document: 398 Amended Complaint, filed by ANGELIQUE MOORE, JB, TIMOTHY LANTRY, DL, TF, TAMEKA FORD, XY, FD, BRYAN YOUNG, FREDERICK DAVY, TL, TAMMIKA YOUNG, LEAH BLAND, HW, RONALD WISOR, MONICA DAVY, ARLETTE MANKEMI, KERIANNE PIESTER.(Copeland, Chad) (Entered: 12/20/2013)
01/02/2014	403	NOTICE (<i>Second</i>) <i>Regarding This Court's Order, Dated December 18, 2013, Denying Defendants' Motion to Stay</i> by LEAH BLAND, FREDERICK DAVY, MONICA DAVY, DL, FD, TAMEKA FORD, HW, JB, TIMOTHY LANTRY, ARLETTE MANKEMI, ANGELIQUE MOORE, KERIANNE PIESTER, TF, TL, RONALD WISOR, XY, BRYAN YOUNG, TAMMIKA YOUNG re 399 Notice (Other), (Attachments: # 1 Exhibit 1 - Petitioners' Motion to Order a Stay of Discovery)(Gluckman, Todd) (Entered: 01/02/2014)
01/03/2014	404	MEMORANDUM AND OPINION regarding the Court's Order 400 denying the District's Motion to Stay Discovery. Signed by Judge Royce C. Lamberth on January 3, 2014. (lcrcl4). (Entered: 01/03/2014)
03/26/2014	405	Consent MOTION for Protective Order by DISTRICT OF COLUMBIA, DEBORAH GIST, CLIFFORD B. JANEY, MICHELLE RHEE (Attachments: # 1 Exhibit Joint Proposed Protective Order)(Copeland, Chad) (Entered: 03/26/2014)
03/28/2014	406	NOTICE of Appearance by Sara Elizabeth Tonnesen on behalf of All Defendants (Tonnesen, Sara) (Entered: 03/28/2014)

Date	Case #	Description
03/31/2014	407	PROTECTIVE ORDER setting forth procedures for handling confidential material, allowing designated material to be filed under seal. Signed by Judge Royce C. Lamberth on 3/27/14. (Attachments: Exhibit A) (mpt,) (Entered: 03/31/2014)
04/02/2014	408	Consent MOTION to Modify <i>the Scheduling Order</i> by LEAH BLAND, DORIS COCKRELL, FREDERICK DAVY, MONICA DAVY, DC, DL, FD, TAMEKA FORD, HW, JB, TIMOTHY LANTRY, DARWIN LAZO, ARLETTE MANKEMI, ANGELIQUE MOORE, OUL, KERIANNE PIESTER, TF, TL, ELIZABETH UMANA-LAZO, RONALD WISOR, XY, BRYAN YOUNG, TAMMIKA YOUNG (Attachments: # 1 Text of Proposed Order)(Terris, Bruce) (Entered: 04/02/2014)
04/09/2014	409	ORDER Granting 408 Motion to Modify the Scheduling Order, dated April 2, 2014. (See Image for Details) Signed by Judge Royce C. Lamberth on 4/4/14. (mpt,) (Entered: 04/09/2014)
04/09/2014		Set/Reset Deadlines: Fact Discovery close by 7/18/2014; Plaintiffs' Expert Report(s) due by 7/18/2014; Defendants' Expert Report(s) due by 8/18/2014; Expert Discovery Close by 9/10/14; Dispositive Motions due by 10/17/2014. (mpt,) (Entered: 04/09/2014)
07/15/2014	410	WITHDRAWN PURSUANT TO NOTICE FILED 7/23/2014.....MOTION for Extension of Time to Complete Discovery by LEAH BLAND, DORIS COCKRELL, FREDERICK DAVY, MONICA DAVY, DC, DL, FD, TAMEKA FORD, HW, JB, TIMOTHY LANTRY, DARWIN LAZO, ARLETTE MANKEMI, ANGELIQUE MOORE, OUL, KERIANNE PIESTER, TF, TL, ELIZABETH UMANA-LAZO, RONALD WISOR, XY, BRYAN YOUNG, TAMMIKA YOUNG (Attachments: # 1 Exhibit 1 - Plaintiffs' First Post-Trial Set of Requests for Production of Documents and Set of Interrogatories, # 2 Exhibit 2 - Plaintiffs' Second Post-Trial Set of Requests for Production, # 3 Exhibit 3 - Letter from the District of Columbia, dated July 9, 2014, # 4 (SEALED) Exhibit 4 - Plaintiffs' Third Post-Trial Set of Requests for Production, # 5 Text of Proposed Order)(Terris, Bruce) Modified on 7/16/2014 (td,). Modified on 7/16/2014 (td,). Modified on 7/24/2014 (rdj). (Entered: 07/15/2014)
07/16/2014	411	NOTICE by LEAH BLAND, FREDERICK DAVY, MONICA DAVY, DL, FD, TAMEKA FORD, HW, JB, TIMOTHY LANTRY, ARLETTE MANKEMI, ANGELIQUE MOORE, KERIANNE PIESTER, TF, TL, RONALD WISOR, XY, BRYAN YOUNG, TAMMIKA YOUNG re 410 MOTION for Extension of Time to Complete Discovery (Terris, Bruce) (Entered: 07/16/2014)
07/23/2014	412	Joint MOTION to Modify <i>the Scheduling Order</i> by DISTRICT OF COLUMBIA (Blecher, Matthew) (Entered: 07/23/2014)
07/23/2014	413	NOTICE OF WITHDRAWAL OF MOTION by LEAH BLAND, FREDERICK DAVY, MONICA DAVY, DL, FD, TAMEKA FORD, HW, JB, TIMOTHY LANTRY, ARLETTE MANKEMI, ANGELIQUE MOORE, KERIANNE PIESTER, TF, TL, RONALD WISOR, XY, BRYAN YOUNG, TAMMIKA YOUNG re 410 MOTION for Extension of Time to Complete Discovery (Terris, Bruce) (Entered: 07/23/2014)
08/07/2014	414	ORDER Granting 412 Joint Motion to Modify the Scheduling Order. (See Image for Details). Signed by Judge Royce C. Lamberth on 8/7/14. (mpt,) (Entered: 08/08/2014)
10/16/2014	415	NOTICE of Appearance by Lauren Seffel on behalf of All Plaintiffs (Seffel, Lauren) (Entered: 10/16/2014)
10/24/2014	416	MOTION for Partial Summary Judgment <i>as to Defendants' Liability Through 2007</i> , MOTION for Judgment on Partial Findings <i>as to Defendants' Liability for the Period From January 1, 2008, Through April 6, 2011</i> by LEAH BLAND, FREDERICK DAVY, MONICA DAVY, DL, FD, TAMEKA FORD, HW, JB, TIMOTHY LANTRY, ARLETTE MANKEMI, ANGELIQUE MOORE, KERIANNE PIESTER, TF, TL, RONALD WISOR, XY, BRYAN YOUNG, TAMMIKA YOUNG (Attachments: # 1 Exhibit 1, # 2 Exhibit 2, # 3 Exhibit 3, # 4 Exhibit 4, # 5 Statement of Facts Statement of Material Facts as to Which There is No

		Dispute, # 6 Statement of Facts Plaintiffs' Proposed Findings of Fact and Conclusions of Law, # 7 Text of Proposed Order)(Terris, Bruce) (Entered: 10/24/2014)
10/24/2014	417	MOTION for Summary Judgment by DISTRICT OF COLUMBIA, DEBORAH GIST, CLIFFORD B. JANEY, MICHELLE RHEE (Attachments: # 1 Exhibit Child Find Policy, # 2 Exhibit Evaluation Policy, # 3 Exhibit Transition Policy, # 4 Exhibit 2011 Written Testimony of Dr. Beers, # 5 Exhibit DCPS Bio of Dr. Beers, # 6 Exhibit SPP/APR Data Summary, # 7 Exhibit Declaration of S. Compagnucci, # 8 Exhibit M. Freund Expert Report, # 9 Exhibit Compagnucci/Robinson Depo, # 10 Exhibit Freund Depo, # 11 Exhibit Dunst Depo, # 12 Exhibit Early Stages Outreach Docs, # 13 Exhibit DCPS 120 Day Timeline Policy, # 14 Exhibit Child Find Flowchart, # 15 Exhibit Maisterra Depo - June 2, 2014, # 16 Exhibit Compagnucci/Wong Depo - June 2, 2014, # 17 Exhibit Due Diligence Protocols, # 18 Exhibit Maisterra/Johnson Depo, # 19 Exhibit Compagnucci/Wong Depo - June 3, 2014, # 20 Exhibit Early Stages Intake Process Policy, # 21 Exhibit Early Stages Program Standard for Ed Assessments, # 22 Exhibit Guidance re Eligibility & IEP Meetings, # 23 Exhibit C. Dunst Expert Report & Supplement, # 24 Exhibit L. Cupingood Expert Report, # 25 Exhibit Dehaan Depo, # 26 Exhibit Maisterra Depo (July 14, 2014), # 27 Exhibit Declaration of A. Maisterra, # 28 Exhibit OSSE Special Education Monitoring 2014-2015, # 29 Exhibit June 23, 2014 OSEP APR Letter, # 30 Exhibit Programmatic Compliance Chart, # 31 Supplement Beers Depo)(Copeland, Chad) (Entered: 10/24/2014)
10/28/2014	418	NOTICE <i>Regarding Sealed Exhibits</i> by DISTRICT OF COLUMBIA, DEBORAH GIST, MICHELLE RHEE re 417 MOTION for Summary Judgment (Blecher, Matthew) (Entered: 10/28/2014)
10/30/2014	419	Unopposed MOTION to Withdraw as Attorney for Plaintiff Class by LEAH BLAND, DORIS COCKRELL, FREDERICK DAVY, MONICA DAVY, DC, DL, FD, TAMEKA FORD, HW, JB, TIMOTHY LANTRY, DARWIN LAZO, ARLETTE MANKEMI, ANGELIQUE MOORE, OUL, KERIANNE PIESTER, TF, TL, ELIZABETH UMANA-LAZO, RONALD WISOR, XY, BRYAN YOUNG, TAMMIKA YOUNG (Attachments: # 1 Memorandum in Support, # 2 Text of Proposed Order)(Gutman, Jeffrey) (Entered: 10/30/2014)
10/31/2014	420	NOTICE of Supplemental Filing by DISTRICT OF COLUMBIA re 417 MOTION for Summary Judgment (Attachments: # 1 Exhibit Corrected Exhibit 27 - Maisterra Declaration) (Tonnesen, Sara) (Entered: 10/31/2014)
11/19/2014	421	ORDER Granting 419 Motion to Withdraw as Attorney Jeffrey S. Gutman terminated as Class Counsel for Plaintiffs. Signed by Judge Royce C. Lamberth on 11/18/14. (mpt,) (Entered: 11/19/2014)
11/21/2014	422	Memorandum in opposition to re 417 MOTION for Summary Judgment filed by LEAH BLAND, DORIS COCKRELL, FREDERICK DAVY, MONICA DAVY, DC, DL, FD, TAMEKA FORD, HW, JB, TIMOTHY LANTRY, DARWIN LAZO, ARLETTE MANKEMI, ANGELIQUE MOORE, OUL, KERIANNE PIESTER, TF, TL, ELIZABETH UMANA-LAZO, RONALD WISOR, XY, BRYAN YOUNG, TAMMIKA YOUNG. (Attachments: # 1 Exhibit 1, # 2 Exhibit 2, # 3 Exhibit 3, # 4 Exhibit 4, # 5 Exhibit 5, # 6 Exhibit 6, # 7 Exhibit 7, # 8 Exhibit 8, # 9 Exhibit 9, # 10 Exhibit 10, # 11 Exhibit 11, # 12 Exhibit 12, # 13 Exhibit 13, # 14 Exhibit 14, # 15 Exhibit 15, # 16 Exhibit 16, # 17 Exhibit 17, # 18 Exhibit 18, # 19 Exhibit 19, # 20 Exhibit 20, # 21 Exhibit 21, # 22 Exhibit 22, # 23 Exhibit 23, # 24 Exhibit 24, # 25 Exhibit 25, # 26 Exhibit 26, # 27 Exhibit 27, # 28 Exhibit 28, # 29 Exhibit 29, # 30 Exhibit 30, # 31 Exhibit 31, # 32 Exhibit 32, # 33 Exhibit 33, # 34 Exhibit 34, # 35 Exhibit 35, # 36 Exhibit 36, # 37 Exhibit 37, # 38 Exhibit 38, # 39 Exhibit 39, # 40 Exhibit 40, # 41 Exhibit 41, # 42 Exhibit 42, # 43 Exhibit 43, # 44 Exhibit 44, # 45 Exhibit 45, # 46 Exhibit 46, # 47 Exhibit 47, # 48 Exhibit 48, # 49 Exhibit 49, # 50 Exhibit 50, # 51 Exhibit 51, # 52 Exhibit 52, # 53 Exhibit 53, # 54 Exhibit 54, # 55 Exhibit 55, # 56 Exhibit 56, # 57 Exhibit 57, # 58 Exhibit 58, # 59 Exhibit 59, # 60 Exhibit 60, # 61 Exhibit 61, # 62 Text of Proposed Order)(Terris, Bruce) (Entered: 11/21/2014)
11/21/2014	423	SEALED DOCUMENT filed by LEAH BLAND, FREDERICK DAVY, MONICA DAVY,

		DL, CD, TAMEKA FORD, HW, JB, TIMOTHY LANTRY, ARLETTE MANKEMI, ANGELIQUE MOORE, KERIANNE PIESTER, TF, TL, RONALD WISOR, XY, BRYAN YOUNG, TAMMIKA YOUNG re 422 Memorandum in Opposition,,,,,, (This document is SEALED and only available to authorized persons.) (Attachments: # 1 Exhibit 19, # 2 Exhibit 20, # 3 Exhibit 23, # 4 Exhibit 24, # 5 Exhibit 34, # 6 Exhibit 48)(Terris, Bruce) (Entered: 11/21/2014)
11/21/2014	424	Memorandum in opposition to re 416 MOTION for Partial Summary Judgment <i>as to Defendants' Liability Through 2007</i> MOTION for Judgment on Partial Findings <i>as to Defendants' Liability for the Period From January 1, 2008, Through April 6, 2011</i> filed by DISTRICT OF COLUMBIA, DEBORAH GIST, CLIFFORD B. JANEY, MICHELLE RHEE. (Attachments: # 1 Exhibit Part B Special Conditions FFY 2014 Progress Report #1, # 2 Exhibit Part B Special Conditions FFY 2013 Progress Report #3, # 3 Exhibit Dunst Deposition Excerpts, # 4 Exhibit Beers Deposition Excerpts, # 5 Exhibit Maisterra Deposition Excerpts, # 6 Exhibit Expert Report of Dr. Maxine Freund, # 7 Exhibit Compagnucci/Robinson Deposition Excerpts, # 8 Exhibit Freund Deposition Excerpts) (Copeland, Chad) (Entered: 11/21/2014)
11/24/2014	425	CERTIFICATE OF SERVICE by LEAH BLAND, DORIS COCKRELL, FREDERICK DAVY, MONICA DAVY, DC, DL, FD, TAMEKA FORD, HW, JB, TIMOTHY LANTRY, DARWIN LAZO, ARLETTE MANKEMI, ANGELIQUE MOORE, OUL, KERIANNE PIESTER, TF, TL, ELIZABETH UMANA-LAZO, RONALD WISOR, XY, BRYAN YOUNG, TAMMIKA YOUNG re 423 Sealed Document, . (Terris, Bruce) (Entered: 11/24/2014)
12/19/2014	426	REPLY to opposition to motion re 416 MOTION for Partial Summary Judgment <i>as to Defendants' Liability Through 2007</i> MOTION for Judgment on Partial Findings <i>as to Defendants' Liability for the Period From January 1, 2008, Through April 6, 2011</i> filed by LEAH BLAND, DORIS COCKRELL, FREDERICK DAVY, MONICA DAVY, DC, DL, FD, TAMEKA FORD, HW, JB, TIMOTHY LANTRY, DARWIN LAZO, ARLETTE MANKEMI, ANGELIQUE MOORE, OUL, KERIANNE PIESTER, TF, TL, ELIZABETH UMANA-LAZO, RONALD WISOR, XY, BRYAN YOUNG, TAMMIKA YOUNG. (Attachments: # 1 Exhibit 5, # 2 Exhibit 6, # 3 Exhibit 7, # 4 Exhibit 8, # 5 Exhibit 9)(Terris, Bruce) (Entered: 12/19/2014)
12/19/2014	427	MOTION Exclude Opinions and Testimony from Carl Dunst and Leonard Cupingood by DISTRICT OF COLUMBIA, CLIFFORD B. JANEY, MICHELLE RHEE (Attachments: # 1 Exhibit Cupingood Appendix 1, # 2 Exhibit Plaintiffs' Discovery Responses, # 3 Exhibit Excerpts of Dunst Deposition Transcript, # 4 Exhibit OSSE Comprehensive Child Find Policy, # 5 Exhibit Excerpt of Johnson Deposition Transcript, # 6 Exhibit August 13, 2014 Email from T. Gluckman, # 7 Exhibit Excerpts of Cupingood Deposition Transcript) (Copeland, Chad) (Entered: 12/19/2014)
12/19/2014	428	REPLY to opposition to motion re 417 MOTION for Summary Judgment filed by DISTRICT OF COLUMBIA, DEBORAH GIST, CLIFFORD B. JANEY, MICHELLE RHEE. (Attachments: # 1 Exhibit CHART RE CONCESSIONS, # 2 Exhibit CHART RE PROGRAM REQS, # 3 Exhibit Maisterra Depo (June 2, 2014), # 4 Exhibit Maisterra Depo (July 2, 2014), # 5 Exhibit Extended IFSP Policy, # 6 Exhibit SPP-APR Enrollment Data Summary, # 7 Exhibit Compagnucci Depo (June 3, 2014), # 8 Exhibit Compagnucci-Wong Depo (June 2, 2014), # 9 Exhibit Dunst Depo, # 10 Exhibit Freund Depo, # 11 Exhibit Compagnucci-Robison Depo Excerpts, # 12 Exhibit Johnson Depo, # 13 Exhibit Beers Depo)(rdj) (Entered: 12/22/2014)
12/23/2014	429	Consent MOTION for Extension of Time to File Response/Reply as to 427 MOTION Exclude Opinions and Testimony from Carl Dunst and Leonard Cupingood by LEAH BLAND, DORIS COCKRELL, FREDERICK DAVY, MONICA DAVY, DC, DL, FD, TAMEKA FORD, HW, JB, TIMOTHY LANTRY, DARWIN LAZO, ARLETTE MANKEMI, ANGELIQUE MOORE, OUL, KERIANNE PIESTER, TF, TL, ELIZABETH UMANA-

		LAZO, RONALD WISOR, XY, BRYAN YOUNG, TAMMIKA YOUNG (Attachments: # 1 Text of Proposed Order)(Terris, Bruce) (Entered: 12/23/2014)
01/07/2015	430	ORDER granting 429 Consent Motion to Modify Briefing Schedule re 427 MOTION to Exclude Opinions and Testimony from Carl Dunst and Leonard Cupingood. It is ORDERED that the plaintiffs' response is due 1/16/2015; and it is FURTHER ORDERED that defendants' reply in support of their motion to exclude is due by 2/2/2015. Signed by Judge Royce C. Lamberth on 1/6/2015. (tg,) (Entered: 01/07/2015)
01/15/2015	431	Memorandum in opposition to re 427 MOTION Exclude Opinions and Testimony from Carl Dunst and Leonard Cupingood filed by LEAH BLAND, DORIS COCKRELL, FREDERICK DAVY, MONICA DAVY, DC, DL, FD, TAMEKA FORD, HW, JB, TIMOTHY LANTRY, DARWIN LAZO, ARLETTE MANKEMI, ANGELIQUE MOORE, OUL, KERIANNE PIESTER, TF, TL, ELIZABETH UMANA-LAZO, RONALD WISOR, XY, BRYAN YOUNG, TAMMIKA YOUNG. (Attachments: # 1 Exhibit 1, # 2 Exhibit 2, # 3 Exhibit 3, # 4 Exhibit 4, # 5 Exhibit 5, # 6 Exhibit 6, # 7 Exhibit 7, # 8 Exhibit 8, # 9 Exhibit 9, # 10 Exhibit 10, # 11 Exhibit 11, # 12 Exhibit 12, # 13 Exhibit 13, # 14 Exhibit 14, # 15 Exhibit 15, # 16 Exhibit 16, # 17 Exhibit 17, # 18 Exhibit 18, # 19 Exhibit 19, # 20 Exhibit 20, # 21 Exhibit 21, # 22 Exhibit 22, # 23 Exhibit 23, # 24 Exhibit 24, # 25 Exhibit 25, # 26 Exhibit 26, # 27 Exhibit 27, # 28 Exhibit 28, # 29 Exhibit 29, # 30 Exhibit 30, # 31 Exhibit 31, # 32 Exhibit 32, # 33 Exhibit 33, # 34 Exhibit 34, # 35 Exhibit 35, # 36 Exhibit 36, # 37 Exhibit 37, # 38 Exhibit 38, # 39 Exhibit 39, # 40 Exhibit 40, # 41 Exhibit 41, # 42 Exhibit 42, # 43 Exhibit 43, # 44 Exhibit 44, # 45 Exhibit 45, # 46 Exhibit 46, # 47 Text of Proposed Order)(Terris, Bruce) (Entered: 01/15/2015)
01/15/2015	432	SEALED DOCUMENT filed by LEAH BLAND, FREDERICK DAVY, MONICA DAVY, DL, FD, TAMEKA FORD, HW, JB, TIMOTHY LANTRY, ARLETTE MANKEMI, ANGELIQUE MOORE, KERIANNE PIESTER, TF, TL, RONALD WISOR, XY, BRYAN YOUNG, TAMMIKA YOUNG re 431 Memorandum in Opposition,,,,, (This document is SEALED and only available to authorized persons.) (Attachments: # 1 Exhibit 5, # 2 Exhibit 8, # 3 Exhibit 9, # 4 Exhibit 12, # 5 Exhibit 13, # 6 Exhibit 14, # 7 Exhibit 15, # 8 Exhibit 16, # 9 Exhibit 17, # 10 Exhibit 18, # 11 Exhibit 19, # 12 Exhibit 20, # 13 Exhibit 21, # 14 Exhibit 22, # 15 Exhibit 23, # 16 Exhibit 24, # 17 Exhibit 25, # 18 Exhibit 26, # 19 Exhibit 27, # 20 Exhibit 28, # 21 Exhibit 29, # 22 Exhibit 30, # 23 Exhibit 31, # 24 Exhibit 32, # 25 Exhibit 33, # 26 Exhibit 34, # 27 Exhibit 35, # 28 Exhibit 36, # 29 Exhibit 37, # 30 Exhibit 38, # 31 Exhibit 39, # 32 Exhibit 45, # 33 Certificate of Service)(Terris, Bruce) (Entered: 01/15/2015)
01/21/2015	433	NOTICE of Filing Supplemental Exhibit by LEAH BLAND, FREDERICK DAVY, MONICA DAVY, DL, FD, TAMEKA FORD, HW, JB, TIMOTHY LANTRY, ARLETTE MANKEMI, ANGELIQUE MOORE, KERIANNE PIESTER, TF, TL, RONALD WISOR, XY, BRYAN YOUNG, TAMMIKA YOUNG re 431 Memorandum in Opposition,,,,, (Attachments: # 1 Exhibit 47)(Terris, Bruce) (Entered: 01/21/2015)
01/21/2015	434	SEALED DOCUMENT filed by LEAH BLAND, FREDERICK DAVY, MONICA DAVY, DL, FD, TAMEKA FORD, HW, JB, TIMOTHY LANTRY, ARLETTE MANKEMI, ANGELIQUE MOORE, KERIANNE PIESTER, TF, TL, RONALD WISOR, XY, BRYAN YOUNG, TAMMIKA YOUNG re 433 Notice (Other), 431 Memorandum in Opposition,,,,, (This document is SEALED and only available to authorized persons.) (Attachments: # 1 Exhibit 47, # 2 Certificate of Service)(Terris, Bruce) (Entered: 01/21/2015)
01/21/2015	435	NOTICE OF WITHDRAWAL OF APPEARANCE as to DISTRICT OF COLUMBIA. Attorney Sara Elizabeth Tonnesen terminated. (Tonnesen, Sara) (Entered: 01/21/2015)
01/21/2015	436	MOTION for Leave to File <i>Sur-Reply in Response to Defendants' Reply in Further Support of Their Motion for Summary Judgment</i> by LEAH BLAND, FREDERICK DAVY, MONICA DAVY, DL, FD, TAMEKA FORD, HW, JB, TIMOTHY LANTRY, ARLETTE MANKEMI, ANGELIQUE MOORE, KERIANNE PIESTER, TF, TL, RONALD WISOR, XY, BRYAN YOUNG, TAMMIKA YOUNG (Attachments: # 1 Text of Proposed Order)(Liu, Jane)

		(Additional attachment(s) added on 5/22/2015. # 1 Exhibit Sur-reply) (j1, 9) (Entered: 01/21/2015)
01/29/2015	437	Consent MOTION for Extension of Time to File Response/Reply as to 427 MOTION Exclude Opinions and Testimony from Carl Dunst and Leonard Cupingood by DISTRICT OF COLUMBIA, DEBORAH GIST, CLIFFORD B. JANEY, MICHELLE RHEE (Copeland, Chad) (Entered: 01/29/2015)
02/03/2015	438	ORDER Granting 437 Motion for Extension of Time to File Response/Reply re 427 MOTION Exclude Opinions and Testimony from Carl Dunst and Leonard Cupingood . Reply in Support due by 2/6/2015. Signed by Judge Royce C. Lamberth on 2/3/15. (mpt) (Entered: 02/04/2015)
02/06/2015	439	REPLY to opposition to motion re 427 MOTION Exclude Opinions and Testimony from Carl Dunst and Leonard Cupingood filed by DISTRICT OF COLUMBIA, DEBORAH GIST, CLIFFORD B. JANEY, MICHELLE RHEE. (Attachments: # 1 Exhibit Excerpts of Cupingood Deposition Testimony, # 2 Exhibit Excerpts of Dunst Deposition Testimony, # 3 Exhibit Excerpts of July 14, 2014 Johnson, Proddutur, Maisterra Deposition Testimony, # 4 Exhibit Defendants' Business Rules for Reporting, # 5 Exhibit Defendants' Responses to Plaintiffs' Requests for Discovery, # 6 Exhibit Plaintiffs' Rule 30(b)(6) Notice of Deposition to Defendants, # 7 Exhibit Excerpts of June 2, 2014 Maisterra Deposition Testimony, # 8 Exhibit Excerpts of July 14, 2014 Maisterra Deposition Testimony, # 9 Exhibit Excerpts of Beaner Deposition Testimony, # 10 Exhibit Excerpts of Freund Deposition Testimony)(Copeland, Chad) (Entered: 02/06/2015)
02/09/2015	440	Memorandum in opposition to re 436 MOTION for Leave to File <i>Sur-Reply in Response to Defendants' Reply in Further Support of Their Motion for Summary Judgment</i> filed by DISTRICT OF COLUMBIA, DEBORAH GIST, CLIFFORD B. JANEY, MICHELLE RHEE. (Copeland, Chad) (Entered: 02/09/2015)
02/11/2015	441	REPLY to opposition to motion re 436 MOTION for Leave to File <i>Sur-Reply in Response to Defendants' Reply in Further Support of Their Motion for Summary Judgment</i> filed by LEAH BLAND, DORIS COCKRELL, FREDERICK DAVY, MONICA DAVY, DC, DL, FD, TAMEKA FORD, HW, JB, TIMOTHY LANTRY, DARWIN LAZO, ARLETTE MANKEMI, ANGELIQUE MOORE, OUL, KERIANNE PIESTER, TF, TL, ELIZABETH UMANA-LAZO, RONALD WISOR, XY, BRYAN YOUNG, TAMMIKA YOUNG. (Terris, Bruce) (Entered: 02/11/2015)
04/03/2015	442	Joint MOTION for Scheduling Order <i>to Schedule a Status Conference</i> by LEAH BLAND, DORIS COCKRELL, FREDERICK DAVY, MONICA DAVY, DC, DL, FD, TAMEKA FORD, HW, JB, TIMOTHY LANTRY, DARWIN LAZO, ARLETTE MANKEMI, ANGELIQUE MOORE, OUL, KERIANNE PIESTER, TF, TL, ELIZABETH UMANA-LAZO, RONALD WISOR, XY, BRYAN YOUNG, TAMMIKA YOUNG (Terris, Bruce) (Entered: 04/03/2015)
04/15/2015	443	Consent MOTION For An Order Requiring Payment of Expert Fees and Expenses by LEAH BLAND, DORIS COCKRELL, FREDERICK DAVY, MONICA DAVY, DC, DL, FD, TAMEKA FORD, HW, JB, TIMOTHY LANTRY, DARWIN LAZO, ARLETTE MANKEMI, ANGELIQUE MOORE, OUL, KERIANNE PIESTER, TF, TL, ELIZABETH UMANA-LAZO, RONALD WISOR, XY, BRYAN YOUNG, TAMMIKA YOUNG (Terris, Bruce) (Entered: 04/15/2015)
06/10/2015	444	MEMORANDUM AND OPINION. Signed by Judge Royce C. Lamberth on 6/10/15. (mpt) (Entered: 06/11/2015)
06/10/2015	445	ORDER Granting Plaintiff's Motion for Summary Judgment 416 ; Denying Defendant's Motion 427 to Exclude Opinions; Denying Plaintiff's Motion 436 for Leave to File a Sur-Reply; Denying Defendant's Motion 417 for Summary Judgment. (See Image for Details). Signed by Judge Royce C. Lamberth on 6/10/15. (mpt) (Entered: 06/11/2015)
06/10/2015	446	ORDER Granting 442 Motion for Scheduling Order; Status Conference set for 6/30/2015

		10:00 AM in Courtroom 22A before Judge Royce C. Lamberth. (See Image for Details)Signed by Judge Royce C. Lamberth on 6/10/15. (mpt) (Entered: 06/11/2015)
06/10/2015	447	ORDER Granting 443 Motion for an Order Requiring Payment of Expert Fees and Expenses. ORDERED that defendants shall pay plaintiffs' counsel, Terris, Pravlik & Millian, LLP, \$23,238.96 within 45 days of the date of this order. Signed by Judge Royce C. Lamberth on 6/10/15. (mpt) (Entered: 06/11/2015)
06/11/2015	448	MOTION to Continue by DISTRICT OF COLUMBIA, DEBORAH GIST, CLIFFORD B. JANEY, MICHELLE RHEE (Attachments: # 1 Exhibit Email from L.Seffel on behalf of B. Terris, # 2 Exhibit Email from B. Terris)(Copeland, Chad) (Entered: 06/11/2015)
06/12/2015	449	Memorandum in opposition to re 448 MOTION to Continue filed by LEAH BLAND, DORIS COCKRELL, FREDERICK DAVY, MONICA DAVY, DC, DL, FD, TAMEKA FORD, HW, JB, TIMOTHY LANTRY, DARWIN LAZO, ARLETTE MANKEMI, ANGELIQUE MOORE, OUL, KERIANNE PIESTER, TF, TL, ELIZABETH UMANA-LAZO, RONALD WISOR, XY, BRYAN YOUNG, TAMMIKA YOUNG. (Attachments: # 1 Text of Proposed Order)(Terris, Bruce) (Entered: 06/12/2015)
06/16/2015	450	REPLY to opposition to motion re 448 MOTION to Continue filed by DISTRICT OF COLUMBIA, DEBORAH GIST, CLIFFORD B. JANEY, MICHELLE RHEE. (Copeland, Chad) (Entered: 06/16/2015)
06/23/2015	451	Joint MOTION for Extension of Time to File <i>the Joint Status Report</i> by LEAH BLAND, DORIS COCKRELL, FREDERICK DAVY, MONICA DAVY, DC, DL, FD, TAMEKA FORD, HW, JB, TIMOTHY LANTRY, DARWIN LAZO, ARLETTE MANKEMI, ANGELIQUE MOORE, OUL, KERIANNE PIESTER, TF, TL, ELIZABETH UMANA-LAZO, RONALD WISOR, XY, BRYAN YOUNG, TAMMIKA YOUNG (Attachments: # 1 Text of Proposed Order)(Terris, Bruce) (Entered: 06/23/2015)
06/25/2015	452	STATUS REPORT (<i>JOINT</i>) by LEAH BLAND, FREDERICK DAVY, MONICA DAVY, DL, FD, TAMEKA FORD, HW, JB, TIMOTHY LANTRY, ARLETTE MANKEMI, ANGELIQUE MOORE, KERIANNE PIESTER, TF, TL, RONALD WISOR, XY, BRYAN YOUNG, TAMMIKA YOUNG. (Terris, Bruce) (Entered: 06/25/2015)
06/26/2015	453	ORDER granting 448 Motion to Continue the status conference set for 6/30/2015. Status Conference reset for 7/7/2015, at 03:00 PM in Courtroom 22A before Judge Royce C. Lamberth. The parties' joint motion 451 for an extension of time to file the joint status report is also granted. The parties' joint status report related to the upcoming status conference is due on 6/25/2015. Signed by Judge Royce C. Lamberth on 6/24/2015. (tth) Modified on 6/26/2015 (tth). Modified on 6/26/2015 (zmp). (Entered: 06/26/2015)
06/26/2015		Set/Reset Hearings: Status Conference set for 7/7/2015 is 03:00 PM instead of 3:30pm in Courtroom 22A before Judge Royce C. Lamberth. (mpt) (Entered: 06/26/2015)
07/07/2015		Minute Entry; for proceedings held before Judge Royce C. Lamberth. Status Conference held on 7/7/2015. Pretrial Statement due by 10/26/2015. Pretrial Conference set for 10/29/2015 at 03:30 PM in Courtroom 22A. Bench Trial set for 11/12/2015 at 10:00 AM in Courtroom 22A before Judge Royce C. Lamberth. (Court Reporter Annette Montalvo) (hs) (Entered: 07/07/2015)
07/20/2015	454	NOTICE of Proposed Order (<i>Parties' Joint Proposed Pre-Trial Schedule</i>) by LEAH BLAND, FREDERICK DAVY, MONICA DAVY, DL, FD, TAMEKA FORD, HW, JB, TIMOTHY LANTRY, ARLETTE MANKEMI, ANGELIQUE MOORE, KERIANNE PIESTER, TF, TL, RONALD WISOR, XY, BRYAN YOUNG, TAMMIKA YOUNG (Attachments: # 1 Text of Proposed Order)(Terris, Bruce) (Entered: 07/20/2015)
07/29/2015	455	MOTION in Limine Regarding Plaintiffs' Factual Summary by LEAH BLAND, DORIS COCKRELL, FREDERICK DAVY, MONICA DAVY, DC, DL, FD, TAMEKA FORD, HW, JB, TIMOTHY LANTRY, DARWIN LAZO, ARLETTE MANKEMI, ANGELIQUE

		MOORE, OUL, KERIANNE PIESTER, TF, TL, ELIZABETH UMANA-LAZO, RONALD WISOR, XY, BRYAN YOUNG, TAMMIKA YOUNG (Attachments: # 1 Exhibit 1, # 2 Exhibit 2, # 3 Exhibit 3, # 4 Text of Proposed Order)(Terris, Bruce) (Entered: 07/29/2015)
07/29/2015	456	SEALED DOCUMENT filed by LEAH BLAND, FREDERICK DAVY, MONICA DAVY, DL, FD, TAMEKA FORD, HW, JB, TIMOTHY LANTRY, ARLETTE MANKEMI, ANGELIQUE MOORE, KERIANNE PIESTER, TF, TL, RONALD WISOR, XY, BRYAN YOUNG, TAMMIKA YOUNG re 455 MOTION in <i>Limine Regarding Plaintiffs' Factual Summary</i> (This document is SEALED and only available to authorized persons.) (Attachments: # 1 Exhibit 1, # 2 Exhibit 2, # 3 Certificate of Service)(Terris, Bruce) (Entered: 07/29/2015)
08/14/2015	457	Consent MOTION for Extension of Time to <i>Oppose Plaintiffs Motion in Limine [Dkt. No. 455]</i> by DISTRICT OF COLUMBIA (Blecher, Matthew) (Entered: 08/14/2015)
08/21/2015	458	ORDER; granting 457 Motion for Extension of Time, Defendant's Response due by 8/24/2015, Signed by Judge Royce C. Lamberth on 8/20/2015. (hs) (Entered: 08/21/2015)
08/24/2015	459	Memorandum in opposition to re 455 MOTION in <i>Limine Regarding Plaintiffs' Factual Summary</i> filed by DISTRICT OF COLUMBIA, DEBORAH GIST, CLIFFORD B. JANEY, MICHELLE RHEE. (Attachments: # 1 Exhibit Excerpts from Deposition of Dr. Amy Maisterra, # 2 Exhibit September 6, 2014 Email from T. Gluckman, # 3 Exhibit Excerpts from Deposition of Dr. Leonard Cupingood, # 4 Exhibit August 13, 2014 Email from C. Copeland, # 5 Exhibit September 2, 2014 Email from C. Copeland, # 6 Exhibit Excerpts from Deposition of Alafia Johnson, # 7 Exhibit August 15, 2014 Email from T. Gluckman, # 8 Exhibit Excerpts from Deposition of Dr. Carl Dunst)(Copeland, Chad) (Entered: 08/24/2015)
08/24/2015	460	Cross MOTION in <i>Limine to Exclude Plaintiffs' Factual Summary</i> by DISTRICT OF COLUMBIA, DEBORAH GIST, CLIFFORD B. JANEY, MICHELLE RHEE (Attachments: # 1 Exhibit Excerpts from Deposition of Dr. Amy Maisterra, # 2 Exhibit February 6, 2014 Email from T. Gluckman, # 3 Exhibit Excerpts from Deposition of Dr. Leonard Cupingood, # 4 Exhibit August 13, 2014 Email from C. Copeland, # 5 Exhibit September 2, 2014 Email from C. Copeland, # 6 Exhibit Excerpts from Deposition of Alafia Johnson, # 7 Exhibit August 15, 2014 Email from T. Gluckman, # 8 Exhibit Excerpts from Deposition of Dr. Carl Dunst)(Copeland, Chad) (Entered: 08/24/2015)
08/26/2015	461	ORDER; Adopting Joint Proposed Pre-Trial Schedule. Attorney Meet and Confer Conference due by 10/9/2015. Motions in Limine due by 9/24/2015. Joint Pretrial Statement due by 10/26/2015. Proposed Findings of Fact due by 10/29/2015. (See order for further details.) Pretrial Conference set for 10/29/2015 at 03:30 PM. Bench Trial set for 11/12/2015 at 10:00 AM in Courtroom 22A, Signed by Judge Royce C. Lamberth on 8/25/2015. (hs) (Entered: 08/26/2015)
08/27/2015	462	NOTICE & Errata by DISTRICT OF COLUMBIA, DEBORAH GIST, MICHELLE RHEE re 460 Cross MOTION in <i>Limine to Exclude Plaintiffs' Factual Summary</i> , 459 Memorandum in Opposition,, (Attachments: # 1 Exhibit Redacted Exhibit 5)(Copeland, Chad) (Entered: 08/27/2015)
09/03/2015	463	REPLY to opposition to motion re 455 MOTION in <i>Limine Regarding Plaintiffs' Factual Summary</i> filed by LEAH BLAND, DORIS COCKRELL, FREDERICK DAVY, MONICA DAVY, DC, DL, FD, TAMEKA FORD, HW, JB, TIMOTHY LANTRY, DARWIN LAZO, ARLETTE MANKEMI, ANGELIQUE MOORE, OUL, KERIANNE PIESTER, TF, TL, ELIZABETH UMANA-LAZO, RONALD WISOR, XY, BRYAN YOUNG, TAMMIKA YOUNG. (Attachments: # 1 Exhibit 4, # 2 Exhibit 5)(Terris, Bruce) (Entered: 09/03/2015)
09/03/2015	464	RESPONSE re 460 Cross MOTION in <i>Limine to Exclude Plaintiffs' Factual Summary</i> filed by LEAH BLAND, DORIS COCKRELL, FREDERICK DAVY, MONICA DAVY, DC, DL, FD, TAMEKA FORD, HW, JB, TIMOTHY LANTRY, DARWIN LAZO, ARLETTE MANKEMI, ANGELIQUE MOORE, OUL, KERIANNE PIESTER, TF, TL, ELIZABETH

		UMANA-LAZO, RONALD WISOR, XY, BRYAN YOUNG, TAMMIKA YOUNG. (Attachments: # 1 Exhibit 4, # 2 Exhibit 5)(Terris, Bruce) (Entered: 09/03/2015)
09/14/2015	465	REPLY to opposition to motion re 460 Cross MOTION in Limine to Exclude Plaintiffs' Factual Summary filed by DISTRICT OF COLUMBIA, DEBORAH GIST, CLIFFORD B. JANEY, MICHELLE RHEE. (Attachments: # 1 Exhibit Excerpts from Deposition of Dr. Amy Maisterra (June 2, 2014), # 2 Exhibit Excerpt from Deposition of Dr. Leonard Cupingood, # 3 Exhibit Excerpts from Deposition of Dr. Carl Dunst)(Copeland, Chad) (Entered: 09/14/2015)
09/21/2015	466	MOTION to Dismiss <i>the Second Claim of Plaintiffs' Second Amended Complaint</i> by DISTRICT OF COLUMBIA, DEBORAH GIST, CLIFFORD B. JANEY, MICHELLE RHEE (Copeland, Chad) (Entered: 09/21/2015)
09/21/2015	467	MOTION Decertify Subclass One by DISTRICT OF COLUMBIA, DEBORAH GIST, CLIFFORD B. JANEY, MICHELLE RHEE (Copeland, Chad) (Entered: 09/21/2015)
09/21/2015	468	MOTION for Reconsideration re 444 Memorandum & Opinion by DISTRICT OF COLUMBIA, DEBORAH GIST, CLIFFORD B. JANEY, MICHELLE RHEE (Attachments: # 1 Exhibit Excerpts from Deposition of Dr. Maxine Freund, # 2 Exhibit Excerpts from Deposition of Dr. Carl Dunst, # 3 Exhibit OSSE Part C to Part B Transition Policy, # 4 Exhibit June 23, 2014 OSEP Correspondence, # 5 Exhibit Excerpts from Deposition of Dr. Amy Maisterra)(Copeland, Chad) (Entered: 09/21/2015)
10/08/2015	469	RESPONSE re 467 MOTION Decertify Subclass One filed by LEAH BLAND, DORIS COCKRELL, FREDERICK DAVY, MONICA DAVY, DC, DL, FD, TAMEKA FORD, HW, JB, TIMOTHY LANTRY, DARWIN LAZO, ARLETTE MANKEMI, ANGELIQUE MOORE, OUL, KERIANNE PIESTER, TF, TL, ELIZABETH UMANA-LAZO, RONALD WISOR, XY, BRYAN YOUNG, TAMMIKA YOUNG. (Attachments: # 1 Text of Proposed Order)(Terris, Bruce) (Entered: 10/08/2015)
10/08/2015	470	RESPONSE re 468 MOTION for Reconsideration re 444 Memorandum & Opinion filed by LEAH BLAND, DORIS COCKRELL, FREDERICK DAVY, MONICA DAVY, DC, DL, FD, TAMEKA FORD, HW, JB, TIMOTHY LANTRY, DARWIN LAZO, ARLETTE MANKEMI, ANGELIQUE MOORE, OUL, KERIANNE PIESTER, TF, TL, ELIZABETH UMANA-LAZO, RONALD WISOR, XY, BRYAN YOUNG, TAMMIKA YOUNG. (Attachments: # 1 Exhibit 1, # 2 Exhibit 2, # 3 Exhibit 3, # 4 Exhibit 4, # 5 Exhibit 5, # 6 Exhibit 6, # 7 Exhibit 7, # 8 Exhibit 8, # 9 Exhibit 9, # 10 Exhibit 10, # 11 Exhibit 11, # 12 Exhibit 12, # 13 Exhibit 13, # 14 Exhibit 14, # 15 Exhibit 15, # 16 Text of Proposed Order)(Terris, Bruce) (Entered: 10/08/2015)
10/08/2015	471	RESPONSE re 466 MOTION to Dismiss <i>the Second Claim of Plaintiffs' Second Amended Complaint</i> filed by LEAH BLAND, DORIS COCKRELL, FREDERICK DAVY, MONICA DAVY, DC, DL, FD, TAMEKA FORD, HW, JB, TIMOTHY LANTRY, DARWIN LAZO, ARLETTE MANKEMI, ANGELIQUE MOORE, OUL, KERIANNE PIESTER, TF, TL, ELIZABETH UMANA-LAZO, RONALD WISOR, XY, BRYAN YOUNG, TAMMIKA YOUNG. (Attachments: # 1 Exhibit 1, # 2 Exhibit 2, # 3 Exhibit 3, # 4 Exhibit 4, # 5 Exhibit 5, # 6 Exhibit 6, # 7 Exhibit 7, # 8 Exhibit 8, # 9 Exhibit 9, # 10 Exhibit 10, # 11 Exhibit 11, # 12 Exhibit 12, # 13 Exhibit 13, # 14 Exhibit 14, # 15 Exhibit 15, # 16 Exhibit 16, # 17 Exhibit 17, # 18 Exhibit 18, # 19 Exhibit 19, # 20 Exhibit 20, # 21 Exhibit 21, # 22 Exhibit 22, # 23 Exhibit 23, # 24 Exhibit 24, # 25 Exhibit 25, # 26 Exhibit 26, # 27 Exhibit 27, # 28 Exhibit 28, # 29 Exhibit 29, # 30 Text of Proposed Order)(Terris, Bruce) (Entered: 10/08/2015)
10/16/2015	472	REPLY to opposition to motion re 467 MOTION Decertify Subclass One filed by DISTRICT OF COLUMBIA, DEBORAH GIST, CLIFFORD B. JANEY, MICHELLE RHEE. (Copeland, Chad) (Entered: 10/16/2015)
10/16/2015	473	REPLY to opposition to motion re 468 MOTION for Reconsideration re 444 Memorandum & Opinion filed by MICHELLE RHEE. (Copeland, Chad) (Entered: 10/16/2015)
10/16/2015	474	REPLY to opposition to motion re 466 MOTION to Dismiss <i>the Second Claim of Plaintiffs'</i>

		Second Amended Complaint filed by DISTRICT OF COLUMBIA, DEBORAH GISS, CLIFFORD B. JANEY, MICHELLE RHEE. (Copeland, Chad) (Entered: 10/16/2015)
10/22/2015	475	NOTICE <i>Plaintiffs' Submission of Written Direct Testimony</i> by LEAH BLAND, FREDERICK DAVY, MONICA DAVY, DL, FD, TAMEKA FORD, HW, JB, TIMOTHY LANTRY, ARLETTE MANKEMI, ANGELIQUE MOORE, KERIANNE PIESTER, TF, TL, RONALD WISOR, XY, BRYAN YOUNG, TAMMIKA YOUNG (Attachments: # 1 Exhibit Direct Testimony of Carl J. Dunst, # 2 Exhibit Direct Testimony of Leonard A. Cupingood)(Terris, Bruce) (Attachment 2 replaced on 11/8/2016) (zad). (Entered: 10/22/2015)
10/22/2015	476	SEALED DOCUMENT filed by LEAH BLAND, FREDERICK DAVY, MONICA DAVY, DL, FD, TAMEKA FORD, HW, JB, TIMOTHY LANTRY, ARLETTE MANKEMI, ANGELIQUE MOORE, KERIANNE PIESTER, TF, TL, RONALD WISOR, XY, BRYAN YOUNG, TAMMIKA YOUNG re 475 Notice (Other), (This document is SEALED and only available to authorized persons.) (Attachments: # 1 Exhibit Direct Testimony of Carl J. Dunst, # 2 Exhibit Direct Testimony of Leonard A. Cupingood, # 3 Certificate of Service)(Terris, Bruce) (Entered: 10/22/2015)
10/22/2015	477	NOTICE <i>of Defendants' Direct Examinations</i> by DISTRICT OF COLUMBIA (Attachments: # 1 Exhibit 1: Direct Examination of Dr. Amy Maisterra, # 2 Exhibit 2: Direct Examination of Kerda DeHaan, # 3 Exhibit 3: Direct Examination of Dr. Nathaniel Beers, # 4 Exhibit 4: Direct Examination of Dr. Travis Wright, # 5 Exhibit 5: Direct Examination of Donna Anthony, # 6 Exhibit 6: Direct Examination of Brian Massey, # 7 Exhibit 7: Direct Examination of Sean Compagnucci, # 8 Exhibit 8: Direct Examination of Carla Watson, # 9 Exhibit 9: Direct Examination of Jessica Roche, # 10 Exhibit 10: Direct Examination of Peter Marshall, # 11 Exhibit 11: Direct Examination of Jeff Noel, # 12 Exhibit 12: Direct Examination of Anupama Proddutur, # 13 Exhibit 13: Direct Examination of Chenise Purvis, # 14 Exhibit 14: Direct Examination of Dr. Maxine Freund)(Blecher, Matthew) (Entered: 10/22/2015)
10/23/2015	478	MEMORANDUM AND OPINION, Signed by Judge Royce C. Lamberth on 10/23/2015. (hs) (Entered: 10/23/2015)
10/23/2015	479	ORDER; granting 455 Motion in Limine Regarding Plaintiffs' Factual Summary ; denying 460 Defendants' Cross-Motion in Limine to Exclude Plaintiffs' Factual Summary, Signed by Judge Royce C. Lamberth on 10/23/2015. (hs) (Entered: 10/23/2015)
10/23/2015	480	ORDER granting 468 Motion for Reconsideration insofar as the appropriate standard for implementation of an IEP shall be determined post-trial. Signed by Judge Royce C. Lamberth on October 23, 2015.(lcrcl3) (Entered: 10/23/2015)
10/23/2015	481	ORDER. Signed by Judge Royce C. Lamberth on October 23, 2015. (lcrcl3) (Entered: 10/23/2015)
10/23/2015	482	MEMORANDUM AND OPINION DENYING defendants' Motion to Decertify Subclass 1 467 . Signed by Judge Royce C. Lamberth on October 23, 2015.(lcrcl3) (Entered: 10/23/2015)
10/23/2015	483	ORDER denying 466 Motion to Dismiss without prejudice to further consideration post-trial. Signed by Judge Royce C. Lamberth on October 23, 2015.(lcrcl3) (Entered: 10/23/2015)
10/26/2015	484	PRETRIAL STATEMENT by LEAH BLAND, FREDERICK DAVY, MONICA DAVY, DL, FD, TAMEKA FORD, HW, JB, TIMOTHY LANTRY, ARLETTE MANKEMI, ANGELIQUE MOORE, KERIANNE PIESTER, TF, TL, RONALD WISOR, XY, BRYAN YOUNG. (Attachments: # 1 Appendix 1 - Plaintiffs' Trial Exhibit List, # 2 Appendix 2 - Plaintiffs' Designations List, # 3 Appendix 3 - Defendants' Trial Exhibit List)(Terris, Bruce) (Entered: 10/26/2015)
10/29/2015	485	NOTICE (<i>Plaintiffs' Submission of Their Pre-Trial Proposed Findings of Fact and Conclusions of Law Regarding Individual Children</i>) by LEAH BLAND, FREDERICK DAVY, MONICA DAVY, DL, FD, TAMEKA FORD, HW, JB, TIMOTHY LANTRY,

		ARLETTE MANKEMI, ANGELIQUE MOORE, KERIANNE PIESTER, TF, TL, RONALD WISOR, XY, BRYAN YOUNG, TAMMIKA YOUNG (Terris, Bruce) (Entered: 10/29/2015)
10/29/2015	486	SEALED DOCUMENT filed by LEAH BLAND, FREDERICK DAVY, MONICA DAVY, DL, FD, TAMEKA FORD, HW, JB, TIMOTHY LANTRY, ARLETTE MANKEMI, ANGELIQUE MOORE, KERIANNE PIESTER, TF, TL, RONALD WISOR, XY, BRYAN YOUNG, TAMMIKA YOUNG re 485 Notice (Other), (This document is SEALED and only available to authorized persons.) (Attachments: # 1 Certificate of Service)(Terris, Bruce) (Entered: 10/29/2015)
10/29/2015	487	NOTICE of Plaintiffs' Submission of Direct Testimony by LEAH BLAND, FREDERICK DAVY, MONICA DAVY, DL, FD, TAMEKA FORD, HW, JB, TIMOTHY LANTRY, ARLETTE MANKEMI, ANGELIQUE MOORE, KERIANNE PIESTER, TF, TL, RONALD WISOR, XY, BRYAN YOUNG, TAMMIKA YOUNG (Attachments: # 1 Exhibit Direct Testimony of Lauren Seffel)(Terris, Bruce) (Entered: 10/29/2015)
10/29/2015		Minute Entry; for proceedings held before Judge Royce C. Lamberth: Pretrial Conference held on 10/29/2015. Bench Trial set for 11/12/2015 at 10:00 AM in Courtroom 22A before Judge Royce C. Lamberth. (Court Reporter Lisa Foradori.) (hs) (Entered: 10/29/2015)
11/02/2015	488	Consent MOTION to Clarify <i>the Record</i> by LEAH BLAND, DORIS COCKRELL, FREDERICK DAVY, MONICA DAVY, DC, DL, FD, TAMEKA FORD, HW, JB, TIMOTHY LANTRY, DARWIN LAZO, ARLETTE MANKEMI, ANGELIQUE MOORE, OUL, KERIANNE PIESTER, TF, TL, ELIZABETH UMANA-LAZO, RONALD WISOR, XY, BRYAN YOUNG, TAMMIKA YOUNG (Attachments: # 1 Text of Proposed Order)(Terris, Bruce) (Entered: 11/02/2015)
11/02/2015	489	MOTION to Submit Supplemental Written Direct Testimony by LEAH BLAND, DORIS COCKRELL, FREDERICK DAVY, MONICA DAVY, DC, DL, FD, TAMEKA FORD, HW, JB, TIMOTHY LANTRY, DARWIN LAZO, ARLETTE MANKEMI, ANGELIQUE MOORE, OUL, KERIANNE PIESTER, TF, TL, ELIZABETH UMANA-LAZO, RONALD WISOR, XY, BRYAN YOUNG, TAMMIKA YOUNG (Attachments: # 1 Exhibit Supplemental Direct Testimony of Dr. Cupingood, # 2 Text of Proposed Order)(Terris, Bruce) (Entered: 11/02/2015)
11/03/2015	490	MOTION for Leave to File <i>Supplemental Direct Examination</i> by DISTRICT OF COLUMBIA (Attachments: # 1 Exhibit 1: Supplemental Direct Examination of Sean Compagnucci) (Blecher, Matthew) (Entered: 11/03/2015)
11/04/2015	491	ORDER; granting 488 Motion to Clarify the Record, Signed by Judge Royce C. Lamberth on 11/3/2015. (hs) (Entered: 11/04/2015)
11/04/2015	492	Memorandum in opposition to re 489 MOTION to Submit Supplemental Written Direct Testimony filed by DISTRICT OF COLUMBIA, DEBORAH GIST, CLIFFORD B. JANEY, MICHELLE RHEE. (Copeland, Chad) (Entered: 11/04/2015)
11/06/2015	493	RESPONSE re 490 MOTION for Leave to File <i>Supplemental Direct Examination</i> filed by LEAH BLAND, DORIS COCKRELL, FREDERICK DAVY, MONICA DAVY, DC, DL, FD, TAMEKA FORD, HW, JB, TIMOTHY LANTRY, DARWIN LAZO, ARLETTE MANKEMI, ANGELIQUE MOORE, OUL, KERIANNE PIESTER, TF, TL, ELIZABETH UMANA-LAZO, RONALD WISOR, XY, BRYAN YOUNG, TAMMIKA YOUNG. (Attachments: # 1 Exhibit 1, # 2 Exhibit 2, # 3 Exhibit 3, # 4 Exhibit 4, # 5 Exhibit 5, # 6 Exhibit 6, # 7 Text of Proposed Order)(Terris, Bruce) (Entered: 11/06/2015)
11/06/2015	494	REPLY to opposition to motion re 489 MOTION to Submit Supplemental Written Direct Testimony of Dr. Cupingood filed by LEAH BLAND, DORIS COCKRELL, FREDERICK DAVY, MONICA DAVY, DC, DL, FD, TAMEKA FORD, HW, JB, TIMOTHY LANTRY, DARWIN LAZO, ARLETTE MANKEMI, ANGELIQUE MOORE, OUL, KERIANNE PIESTER, TF, TL, ELIZABETH UMANA-LAZO, RONALD WISOR, XY, BRYAN YOUNG, TAMMIKA YOUNG. (Terris, Bruce) (Entered: 11/06/2015)

Date	Document ID	Description
11/06/2015	495	PRETRIAL ORDER granting 489 plaintiffs' motion to submit supplemental written direct testimony and overruling defendants' evidentiary objections to three of plaintiffs' exhibits. Signed by Judge Royce C. Lamberth on November 6, 2015.(lcrcl3) (Entered: 11/06/2015)
11/09/2015	496	REPLY to opposition to motion re 490 MOTION for Leave to File <i>Supplemental Direct Examination</i> filed by DISTRICT OF COLUMBIA, DEBORAH GIST, CLIFFORD B. JANEY, MICHELLE RHEE. (Copeland, Chad) (Entered: 11/09/2015)
11/09/2015	497	MOTION to Compel , MOTION Exclude Plaintiffs' Factual Summary re 479 Order on Motion in Limine, by DISTRICT OF COLUMBIA, DEBORAH GIST, CLIFFORD B. JANEY, MICHELLE RHEE (Attachments: # 1 Exhibit Questions Where Privilege Asserted, # 2 Exhibit Statements from Plaintiffs' Counsel During Deposition)(Copeland, Chad) (Entered: 11/09/2015)
11/09/2015	498	ORDER denying 490 Defendants' Motion for Leave to File Supplemental Written Direct Examination. Signed by Judge Royce C. Lamberth on November 9, 2015.(lcrcl3) (Entered: 11/09/2015)
11/12/2015		Minute Entry for proceedings held before Judge Royce C. Lamberth: Bench Trial held on 11/12/2015. Trial begun, evidence entered and bench trial continued to 11/13/2015 @ 10:00 AM in Courtroom 22A before Judge Royce C. Lamberth. Witnesses: Dr. Leonard A. Cupingood; Dr. Carl Dunst; Lauren Seffel. (Court Reporter: Lisa Foradori.) (tj) (Entered: 11/12/2015)
11/12/2015	499	ORDER denying 497 Motion to Compel Foundational Evidence or to Exclude Plaintiffs' Factual Summary. Signed by Judge Royce C. Lamberth on November 12, 2015.(lcrcl3) (Entered: 11/12/2015)
11/13/2015		Minute Entry for proceedings held before Judge Royce C. Lamberth: Bench Trial held on 11/13/2015 and continued to 11/16/15 at 10:00 AM in Courtroom 22A before Judge Royce C. Lamberth. Written testimony of Dr. Amy Maisterra, Kerda DeHaan, Jessica Roche, Sean Compagnucci, Anupama Proddutur, Dr. Nathaniel Beers, Jeffery Noel, Peter Marshall, Chenise Purvis and Brian Massey admitted to evidence. Oral Motion to Strike portions of Dr. Amy Maisterra's written testimony HEARD and GRANTED. Witnesses: Dr. Amy Maisterra, Kerda DeHaan, Jessica Roche, Sean Compagnucci, Anupama Proddutur, Dr. Nathaniel Beers and Dr. Carl Dunst. (Court Reporter Lisa Foradori.) (zsm) (Entered: 11/13/2015)
11/16/2015		Minute Entry for proceedings held before Judge Royce C. Lamberth: Bench Trial held and concluded on 11/16/2015. (Proposed Findings of Fact and Conclusions of Law due by 1/22/2016). Witnesses: Carla Watson; Dr. Travis Wright; Dr. Maxine Freund. (Court Reporter: Lisa Foradori.) (kt) (Entered: 11/16/2015)
11/16/2015	500	Exhibit List by Plaintiffs. (kt) (Entered: 11/17/2015)
11/16/2015	501	Exhibit List by Defendants. (kt) (Entered: 11/17/2015)
11/24/2015	502	NOTICE <i>Regarding Plaintiffs' Exhibit List</i> by LEAH BLAND, FREDERICK DAVY, MONICA DAVY, DL, FD, TAMEKA FORD, HW, JB, TIMOTHY LANTRY, ARLETTE MANKEMI, ANGELIQUE MOORE, KERIANNE PIESTER, TF, TL, RONALD WISOR, XY, BRYAN YOUNG, TAMMIKA YOUNG re 500 Exhibit List (Attachments: # 1 Exhibit 1: Plaintiffs' Exhibit List)(Terris, Bruce) (Entered: 11/24/2015)
11/30/2015	503	NOTICE OF WITHDRAWAL OF APPEARANCE as to LEAH BLAND, FREDERICK DAVY, MONICA DAVY, DL, FD, TAMEKA FORD, HW, JB, TIMOTHY LANTRY, ARLETTE MANKEMI, ANGELIQUE MOORE, KERIANNE PIESTER, TF, TL, RONALD WISOR, XY, BRYAN YOUNG, TAMMIKA YOUNG. Attorney Jane M. Liu terminated. (Liu, Jane) (Entered: 11/30/2015)
11/30/2015	504	NOTICE OF WITHDRAWAL OF APPEARANCE as to LEAH BLAND, FREDERICK DAVY, MONICA DAVY, DL, FD, TAMEKA FORD, HW, JB, TIMOTHY LANTRY, ARLETTE MANKEMI, ANGELIQUE MOORE, KERIANNE PIESTER, TF, TL, RONALD

USCA Case #18-7084, WISOR, XY, BRYAN YOUNG, DMMIKA YOUNG Attorney Lauren Seffel terminated. (Seffel, Lauren) (Entered: 11/30/2015)

12/08/2015	505	TRANSCRIPT OF PROCEEDINGS before Judge Royce C. Lamberth held on 11-12-15; Page Numbers: 1-189. Date of Issuance:12-8-15. Court Reporter/Transcriber Lisa M. Foradori, Telephone number 202-354-3269, Transcripts may be ordered by submitting the Transcript Order Form.<P></P><P></P>For the first 90 days after this filing date, the transcript may be viewed at the courthouse at a public terminal or purchased from the court reporter referenced above. After 90 days, the transcript may be accessed via PACER. Other transcript formats, (multi-page, condensed, CD or ASCII) may be purchased from the court reporter.<P> NOTICE RE REDACTION OF TRANSCRIPTS: The parties have twenty-one days to file with the court and the court reporter any request to redact personal identifiers from this transcript. If no such requests are filed, the transcript will be made available to the public via PACER without redaction after 90 days. The policy, which includes the five personal identifiers specifically covered, is located on our website at www.dcd.uscourts.gov.<P></P> Redaction Request due 12/29/2015. Redacted Transcript Deadline set for 1/8/2016. Release of Transcript Restriction set for 3/7/2016.(Foradori, Lisa) (Entered: 12/08/2015)
12/08/2015	506	TRANSCRIPT OF PROCEEDINGS before Judge Royce C. Lamberth held on 11-13-15; Page Numbers: 1-65. Date of Issuance:12-8-15. Court Reporter/Transcriber Lisa M. Foradori, Telephone number 202-354-3269, Transcripts may be ordered by submitting the Transcript Order Form.<P></P><P></P>For the first 90 days after this filing date, the transcript may be viewed at the courthouse at a public terminal or purchased from the court reporter referenced above. After 90 days, the transcript may be accessed via PACER. Other transcript formats, (multi-page, condensed, CD or ASCII) may be purchased from the court reporter.<P> NOTICE RE REDACTION OF TRANSCRIPTS: The parties have twenty-one days to file with the court and the court reporter any request to redact personal identifiers from this transcript. If no such requests are filed, the transcript will be made available to the public via PACER without redaction after 90 days. The policy, which includes the five personal identifiers specifically covered, is located on our website at www.dcd.uscourts.gov.<P></P> Redaction Request due 12/29/2015. Redacted Transcript Deadline set for 1/8/2016. Release of Transcript Restriction set for 3/7/2016.(Foradori, Lisa) (Entered: 12/08/2015)
12/08/2015	507	TRANSCRIPT OF PROCEEDINGS before Judge Royce C. Lamberth held on 11-16-15; Page Numbers: 1-98. Date of Issuance:12-8-15. Court Reporter/Transcriber Lisa M. Foradori, Telephone number 202-354-3269, Transcripts may be ordered by submitting the Transcript Order Form.<P></P><P></P>For the first 90 days after this filing date, the transcript may be viewed at the courthouse at a public terminal or purchased from the court reporter referenced above. After 90 days, the transcript may be accessed via PACER. Other transcript formats, (multi-page, condensed, CD or ASCII) may be purchased from the court reporter.<P> NOTICE RE REDACTION OF TRANSCRIPTS: The parties have twenty-one days to file with the court and the court reporter any request to redact personal identifiers from this transcript. If no such requests are filed, the transcript will be made available to the public via PACER without redaction after 90 days. The policy, which includes the five personal identifiers specifically covered, is located on our website at www.dcd.uscourts.gov.<P></P> Redaction Request due 12/29/2015. Redacted Transcript Deadline set for 1/8/2016. Release of Transcript Restriction set for 3/7/2016.(Foradori, Lisa) (Entered: 12/08/2015)
01/15/2016	508	Consent MOTION to Modify <i>Schedule</i> by DISTRICT OF COLUMBIA (Blecher, Matthew) (Entered: 01/15/2016)
01/15/2016	509	ORDER granting 508 Motion to Modify the Schedule. Signed by Judge Royce C. Lamberth on January 15, 2016.(lcrcl3) (Entered: 01/15/2016)
02/05/2016	510	MOTION to Dismiss by DISTRICT OF COLUMBIA, DEBORAH GIST, CLIFFORD B.

		JANEY, MICHELLE RHEE (Copeland, Chad) (Entered: 02/05/2016)
02/05/2016	511	NOTICE by LEAH BLAND, FREDERICK DAVY, MONICA DAVY, DL, FD, TAMEKA FORD, HW, JB, TIMOTHY LANTRY, ARLETTE MANKEMI, ANGELIQUE MOORE, KERIANNE PIESTER, TF, TL, RONALD WISOR, XY, BRYAN YOUNG, TAMMIKA YOUNG (Attachments: # 1 Exhibit Plaintiffs' Post-Trial Proposed Findings of Fact and Conclusions of Law (Redacted))(Terris, Bruce) (Entered: 02/05/2016)
02/05/2016	512	NOTICE <i>Related to Filing Under Seal</i> by LEAH BLAND, FREDERICK DAVY, MONICA DAVY, DL, FD, TAMEKA FORD, HW, JB, TIMOTHY LANTRY, ARLETTE MANKEMI, ANGELIQUE MOORE, KERIANNE PIESTER, TF, TL, RONALD WISOR, XY, BRYAN YOUNG, TAMMIKA YOUNG re 511 Notice (Other), (Terris, Bruce) (Entered: 02/05/2016)
02/05/2016	513	Proposed Findings of Fact by DISTRICT OF COLUMBIA. (Blecher, Matthew) (Entered: 02/05/2016)
02/08/2016	514	SEALED DOCUMENT filed by LEAH BLAND, FREDERICK DAVY, MONICA DAVY, DL, FD, TAMEKA FORD, HW, JB, TIMOTHY LANTRY, ARLETTE MANKEMI, ANGELIQUE MOORE, KERIANNE PIESTER, TF, TL, RONALD WISOR, XY, BRYAN YOUNG, TAMMIKA YOUNG re 512 Notice (Other), 511 Notice (Other), (This document is SEALED and only available to authorized persons.) (Attachments: # 1 Exhibit Plaintiffs' Post-Trial Proposed Findings of Fact and Conclusions of Law (Confidential), # 2 Exhibit Plaintiffs' Post-Trial Proposed Findings of Fact and Conclusions of Law Regarding Individual Children (Confidential), # 3 Certificate of Service)(Terris, Bruce) (Entered: 02/08/2016)
02/08/2016	515	NOTICE <i>Related to Issues Filing Under Seal</i> by LEAH BLAND, FREDERICK DAVY, MONICA DAVY, DL, FD, TAMEKA FORD, HW, JB, TIMOTHY LANTRY, ARLETTE MANKEMI, ANGELIQUE MOORE, KERIANNE PIESTER, TF, TL, RONALD WISOR, XY, BRYAN YOUNG, TAMMIKA YOUNG re 514 Sealed Document,, 511 Notice (Other), 512 Notice (Other), (Terris, Bruce) (Entered: 02/08/2016)
02/19/2016	516	RESPONSE re 510 MOTION to Dismiss filed by LEAH BLAND, DORIS COCKRELL, FREDERICK DAVY, MONICA DAVY, DC, DL, FD, TAMEKA FORD, HW, JB, TIMOTHY LANTRY, DARWIN LAZO, ARLETTE MANKEMI, ANGELIQUE MOORE, OUL, KERIANNE PIESTER, TF, TL, ELIZABETH UMANA-LAZO, RONALD WISOR, XY, BRYAN YOUNG, TAMMIKA YOUNG. (Attachments: # 1 Text of Proposed Order)(Terris, Bruce) (Entered: 02/19/2016)
02/29/2016	517	REPLY to opposition to motion re 510 MOTION to Dismiss filed by DISTRICT OF COLUMBIA, DEBORAH GIST, CLIFFORD B. JANEY, MICHELLE RHEE. (Copeland, Chad) (Entered: 02/29/2016)
05/18/2016	518	ORDER denying 510 Motion to Dismiss. Signed by Judge Royce C. Lamberth on May 18, 2016.(lcrcl3) (Entered: 05/18/2016)
05/18/2016	519	MEMORANDUM OPINION. Signed by Judge Royce C. Lamberth on May 18, 2016.(lcrcl3) (Entered: 05/18/2016)
05/18/2016	520	MEMORANDUM OPINION & FINDINGS OF FACT AND CONCLUSIONS OF LAW. Signed by Judge Royce C. Lamberth on May 18, 2016.(lcrcl3) (Entered: 05/18/2016)
05/18/2016	521	ORDER. Signed by Judge Royce C. Lamberth on May 18, 2016.(lcrcl3) (Entered: 05/18/2016)
06/01/2016	522	MOTION for a Status Conference or, in the Alternative, To Modify the Schedule Regarding Plaintiffs' Motion for Attorneys' Fees and Expenses by LEAH BLAND, DORIS COCKRELL, FREDERICK DAVY, MONICA DAVY, DC, DL, FD, TAMEKA FORD, HW, JB, TIMOTHY LANTRY, DARWIN LAZO, ARLETTE MANKEMI, ANGELIQUE MOORE, OUL, KERIANNE PIESTER, TF, TL, ELIZABETH UMANA-LAZO, RONALD WISOR, XY, BRYAN YOUNG, TAMMIKA YOUNG (Attachments: # 1 Text of Proposed Order (Proposed Orders))(Terris, Bruce) (Entered: 06/01/2016)

06/03/2016	523	RESPONSE re 522 MOTION for a Status Conference or, in the Alternative, To Modify the Schedule Regarding Plaintiffs' Motion for Attorneys' Fees and Expenses filed by DISTRICT OF COLUMBIA, DEBORAH GIST, CLIFFORD B. JANEY, MICHELLE RHEE. (Copeland, Chad) (Entered: 06/03/2016)
06/08/2016	524	REPLY to opposition to motion re 522 MOTION for a Status Conference or, in the Alternative, To Modify the Schedule Regarding Plaintiffs' Motion for Attorneys' Fees and Expenses filed by LEAH BLAND, DORIS COCKRELL, FREDERICK DAVY, MONICA DAVY, DC, DL, FD, TAMEKA FORD, HW, JB, TIMOTHY LANTRY, DARWIN LAZO, ARLETTE MANKEMI, ANGELIQUE MOORE, OUL, KERIANNE PIESTER, TF, TL, ELIZABETH UMANA-LAZO, RONALD WISOR, XY, BRYAN YOUNG, TAMMIKA YOUNG. (Terris, Bruce) (Entered: 06/08/2016)
06/09/2016	525	ORDER granting 522 Motion for a Status Conference regarding attorneys' fees and expenses. Upon consideration of the Plaintiffs' Motion; it is hereby ORDERED that a Status Conference shall be scheduled for June 30, 2016 at 10:00 AM in Courtroom 22A before Judge Royce C. Lamberth. Signed by Judge Royce C. Lamberth on 6/9/2016. (tg) (Entered: 06/09/2016)
06/16/2016	526	ENTERED IN ERROR.....NOTICE of Appeal by DISTRICT OF COLUMBIA, DEBORAH GIST, MICHELLE RHEE (Copeland, Chad) Modified on 6/16/2016 (zrdj). (Entered: 06/16/2016)
06/16/2016		NOTICE OF ERROR re 526 Notice (Other); emailed to chad.copeland@dc.gov, cc'd 18 associated attorneys -- The PDF file you docketed contained errors: 1. Incorrect event used, 2. Counsel is INSTRUCTED to refile said pleading using the Notice of Appeal event, found under Appeal Documents. ACTION REQUIRED (zrdj,) (Entered: 06/16/2016)
06/16/2016	527	NOTICE OF APPEAL TO DC CIRCUIT COURT re 518 , 519 , 520 , and 521 by DISTRICT OF COLUMBIA, MICHELLE RHEE, DEBORAH GIST, CLIFFORD B. JANEY. Fee Status: No Fee Paid. Parties have been notified. (Copeland, Chad) Modified on 6/17/2016 to add linkage (zrdj). (Entered: 06/16/2016)
06/17/2016	528	Transmission of the Notice of Appeal, Order Appealed, and Docket Sheet to US Court of Appeals. The Court of Appeals docketing fee was not paid because the fee was an Appeal by the Government re 527 Notice of Appeal to DC Circuit Court. (zrdj) (Entered: 06/17/2016)
06/17/2016		MINUTE ORDER: The Status Conference scheduled for June 30, 2016, at 10:00 a.m. will no longer be held in Courtroom 22A. It will be held in Courtroom 9, on the Fourth Floor, before Judge Royce C. Lamberth. Signed by Judge Royce C. Lamberth on 6/17/2016. (ad) (Entered: 06/17/2016)
06/17/2016	529	Consent MOTION Correct the Court's Decision re 520 Findings of Fact & Conclusions of Law by DISTRICT OF COLUMBIA, DEBORAH GIST, CLIFFORD B. JANEY, MICHELLE RHEE (Copeland, Chad) (Entered: 06/17/2016)
06/17/2016	530	Consent MOTION to Amend/Correct 520 Findings of Fact & Conclusions of Law by LEAH BLAND, DORIS COCKRELL, FREDERICK DAVY, MONICA DAVY, DC, DL, FD, TAMEKA FORD, HW, JB, TIMOTHY LANTRY, DARWIN LAZO, ARLETTE MANKEMI, ANGELIQUE MOORE, OUL, KERIANNE PIESTER, TF, TL, ELIZABETH UMANA-LAZO, RONALD WISOR, XY, BRYAN YOUNG, TAMMIKA YOUNG (Attachments: # 1 Text of Proposed Order)(Terris, Bruce) (Entered: 06/17/2016)
06/21/2016	531	ORDER granting Defendants' Consent Motion 529 to Correct the Court's Decision. Signed by Judge Royce C. Lamberth on June 21, 2016.(lrc13) (Entered: 06/21/2016)
06/21/2016	532	ORDER granting Plaintiffs' Consent Motion 530 to Correct the Court's Decision. Signed by Judge Royce C. Lamberth on June 21, 2016.(lrc13) (Entered: 06/21/2016)
06/21/2016	533	CORRECTED MEMORANDUM OPINION & FINDINGS OF FACT AND CONCLUSIONS OF LAW. Signed by Judge Royce C. Lamberth on June 21, 2016.(lrc13) (Entered: 06/21/2016)

06/24/2016	534	NOTICE OF APPEAL TO DC CIRCUIT COURT as to 533 Memorandum & Opinion by DISTRICT OF COLUMBIA, MICHELLE RHEE, DEBORAH GIST, CLIFFORD B. JANEY. Fee Status: No Fee Paid. Parties have been notified. (Copeland, Chad) (Entered: 06/24/2016)
06/27/2016	535	Transmission of the Notice of Appeal, Order Appealed, and Docket Sheet to US Court of Appeals. The Court of Appeals docketing fee was not paid because the fee was an Appeal by the Government re 534 Notice of Appeal to DC Circuit Court. (zrdj) (Entered: 06/27/2016)
06/27/2016		USCA Case Number 16-7076 for 534 Notice of Appeal to DC Circuit Court filed by MICHELLE RHEE, DISTRICT OF COLUMBIA, CLIFFORD B. JANEY, DEBORAH GIST. (zrdj) (Entered: 06/27/2016)
06/30/2016		Minute Entry for proceedings held before Judge Royce C. Lamberth: Status Conference held on 6/30/2016 In Regards To 522 Motion For A Status Conference Or, In The Alternative, To Modify the Schedule Regarding Plaintiffs' Motion for Attorneys' Fees And Expenses. (Court Reporter WILLIAM ZAREMBA.) (mac) (Entered: 06/30/2016)
06/30/2016	536	ORDER setting briefing schedule regarding plaintiffs' application for attorneys' fees and related expenses: Plaintiffs' Motion and Supporting Memorandum due by 9/28/2016; Defendants' Opposition Brief due by 12/27/2016; Plaintiffs' Reply Brief due by 2/10/2017. Signed by Judge Royce C. Lamberth on 6/30/2016. (tg) Modified deadline on 6/30/2016 (tg). (Entered: 06/30/2016)
09/28/2016	537	MOTION for Attorney Fees by LEAH BLAND, DORIS COCKRELL, FREDERICK DAVY, MONICA DAVY, DC, DL, FD, TAMEKA FORD, HW, JB, TIMOTHY LANTRY, DARWIN LAZO, ARLETTE MANKEMI, ANGELIQUE MOORE, OUL, KERIANNE PIESTER, TF, TL, ELIZABETH UMANA-LAZO, RONALD WISOR, XY, BRYAN YOUNG, TAMMIKA YOUNG (Attachments: # 1 Exhibit 1 (Affidavit of Bruce J. Terris), # 2 Exhibit 2 (TPM Timekeeper Chart), # 3 Exhibit 3 (Resumes of TPM Attorneys), # 4 Exhibit 4 (Summary of Fees and Expenses (Period 1 and Period 2)), # 5 Exhibit 5 (TPM Summary Time by Category for Main Case (Period 1)), # 6 Exhibit 6 (TPM Time Records by Category for Main Case (Period 1)), # 7 Exhibit 7 (TPM No Charge Time Records by Category (Period 1)), # 8 Exhibit 8 (TPM Summary of Expenses (Period 1)), # 9 Exhibit 9 (TPM Reductions of Time and Expenses from Plaintiffs Reply in Support of Plaintiffs 2012 Fee Application (Period 1)), # 10 Exhibit 10 (TPM Summary of Additional Reductions of Time and Expenses (Period 1)), # 11 Exhibit 11 (TPM Summary of Time by Billing Client and Category (Period 2)), # 12 Exhibit 12 (TPM Time Records by Category (Period 2)), # 13 Exhibit 13 (TPM No Charge Time Records (Period 2)), # 14 Exhibit 14 (TPM Summary of Expenses (Period 2)), # 15 Exhibit 15 (Affidavit of Jeffrey S. Gutman), # 16 Exhibit 16 (Affidavit of Margaret A. Kohn), # 17 Exhibit 17 (Affidavit of Cyrus Mehri), # 18 Exhibit 18 (Affidavit of Dr. Carl J. Dunst), # 19 Exhibit 19 (Carl J. Dunsts Fees and Expenses Related to His 2010 Deposition and the 2011 and 2015 Trials, which are Being Requested pursuant to F.R.C.P. Rule 26, 28 U.S.C. 1920, and 28 U.S.C. 1821), # 20 Exhibit 20 (Affidavit of Dr. Leonard A. Cupingood), # 21 Exhibit 21 (Leonard A. Cupingoods Fees and Expenses Related to his 2010 Deposition and the 2011 and 2015 Trials, which are Being Requested pursuant to F.R.C.P. Rule 26, 28 U.S.C. 1920, and 28 U.S.C. 1821), # 22 Exhibit 22 (U.S. Department of Commerce, Bureau of Labor Statistics, Legal Services Component of the Consumer Price Index), # 23 Exhibit 23 (Laffey Matrix Updated Using Legal Services Index (LSI Laffey Matrix)), # 24 Exhibit 24 (USAO Matrix 2015-2017), # 25 Exhibit 25 (USAO Laffey Matrix 2014-2015), # 26 Exhibit 26 (Affidavit of Carolyn Smith Pravlik), # 27 Exhibit 27 (Declaration of Michael Kavanaugh), # 28 Exhibit 28 (Affidavit of Michael P. Downey), # 29 Exhibit 29 (Affidavit of Bruce MacEwen), # 30 Exhibit 30 (Affidavit of Daniel Rezneck), # 31 Exhibit 31 (Laffey Matrix Data from Laffey Affidavit of Daniel Rezneck), # 32 Exhibit 32 (1982 Martindale-Hubbell Law Directory Listings for Laffey Matrix Firms), # 33 Exhibit 33 (Declaration of Joseph A. Yablonski), # 34 Exhibit 34 (Yablonski, Both & Edelman Website), # 35 Exhibit 35 (Affidavit of L. Thomas Galloway), # 36 Exhibit 36 (Testimony of Ward Bower from Palmer v. Rice (excerpted) with Biography from Altman Weil, Inc., website), # 37 Exhibit 37 (Affidavit of David N. Webster), # 38 Exhibit 38 (ALM Legal Intelligence, 2010 Survey of Law Firm

		Economics), # 39 Exhibit 39 (D.C. Code Ann. §§ 2-1302(b)(1), 32-1302(m)(1)), # 40 Exhibit 40 (2012-2013 Range of Firm Billing Rates Table), # 41 Exhibit 41 (2012-2013 Average Law Firm Billing Rates Table), # 42 Exhibit 42 (2012-2013 Percentage Difference in Billing Rates Tables), # 43 Exhibit 43 (Thomson Reuters/Westlaw Legal Billing Report, August 2015), # 44 Exhibit 44 (Thomson Reuters/Westlaw Legal Billing Report, December 2015), # 45 Exhibit 45 (Thomson Reuters/Westlaw Legal Billing Report, May 2016), # 46 Exhibit 46 (U.S. Department of Commerce, Bureau of Labor Statistics, All-Items, Regional Component of the Consumer Price Index), # 47 Exhibit 47 (2015-2016 Range of Firm Billing Rates Table), # 48 Exhibit 48 (2015-2016 Average Firm Billing Rates Table), # 49 Exhibit 49 (2015-2016 Percentage Difference between 2015-2016 Market Data and 2016-2017 Rate Matrices), # 50 Exhibit 50 (Declaration of Mark N. Bravin), # 51 Exhibit 51 (Declaration of Julie Goldsmith Reiser), # 52 Exhibit 52 (Declaration of Paul D. Clement), # 53 Exhibit 53 (Declaration of Mark F. (Thor) Hearne II), # 54 Exhibit 54 (Declaration of Steven K. Davidson), # 55 Exhibit 55 (Supplemental Declaration of Steven K. Davidson), # 56 Exhibit 56 (Declaration of John P. Relman), # 57 Exhibit 57 (Declaration of Megan Cacace), # 58 Exhibit 58 (Landowners Memorandum in Support of Motion for Attorney Fees and Litigation Expenses), # 59 Exhibit 59 (E-mail from Meghan Largent to Carolyn Smith Pravlik), # 60 Exhibit 60 (Declaration of Cyrus Mehri, filed in Brown v. Medicis Pharmaceutical Corp.), # 61 Exhibit 61 (Declaration of David K. Colapinto), # 62 Exhibit 62 (Declaration of Jeffrey L. Light), # 63 Exhibit 63 (Fee Affidavit of Tamara L. Miller), # 64 Exhibit 64 (Declaration of Jessica Ring Amunson), # 65 Exhibit 65 (Affidavit of Robert Corn-Revere), # 66 Exhibit 66 (Affidavit of Anthony T. Pierce), # 67 Exhibit 67 (Affidavit of Nathan Lewin), # 68 Exhibit 68 (Affidavit of Barry Coburn), # 69 Text of Proposed Order)(Terris, Bruce) (Entered: 09/28/2016)
12/13/2016	538	Consent MOTION to Modify <i>the Final Order</i> by DISTRICT OF COLUMBIA, DEBORAH GIST, CLIFFORD B. JANEY, MICHELLE RHEE (Copeland, Chad) (Entered: 12/13/2016)
12/14/2016	539	MOTION for Extension of Time to File <i>Defendants' Opposition to Plaintiffs' Motion for Fees and Costs</i> by DISTRICT OF COLUMBIA, DEBORAH GIST, CLIFFORD B. JANEY, MICHELLE RHEE (Attachments: # 1 Exhibit Correspondence with Plaintiffs' Affiants) (Copeland, Chad) (Entered: 12/14/2016)
12/16/2016	540	RESPONSE re 539 MOTION for Extension of Time to File <i>Defendants' Opposition to Plaintiffs' Motion for Fees and Costs</i> filed by LEAH BLAND, DORIS COCKRELL, FREDERICK DAVY, MONICA DAVY, DC, DL, FD, TAMEKA FORD, HW, JB, TIMOTHY LANTRY, DARWIN LAZO, ARLETTE MANKEMI, ANGELIQUE MOORE, OUL, KERIANNE PIESTER, TF, TL, ELIZABETH UMANA-LAZO, RONALD WISOR, XY, BRYAN YOUNG, TAMMIKA YOUNG. (Attachments: # 1 Text of Proposed Order)(Terris, Bruce) (Entered: 12/16/2016)
12/19/2016	541	REPLY to opposition to motion re 539 MOTION for Extension of Time to File <i>Defendants' Opposition to Plaintiffs' Motion for Fees and Costs</i> filed by DISTRICT OF COLUMBIA, DEBORAH GIST, CLIFFORD B. JANEY, MICHELLE RHEE. (Copeland, Chad) (Entered: 12/19/2016)
12/29/2016	542	ORDER denying 538 Motion to Modify for lack of jurisdiction due to the pending appeal. If remanded, (see <i>Smith v Pollin</i> , 194 F.2d 349 (D.C. Cir. 1952)), the Court would Order. Signed by Judge Royce C. Lamberth on 12/28/16. (zlsj) (Entered: 12/29/2016)
12/29/2016	543	ORDER granting 539 Motion for Extension of Time to File. Defendant's shall file their Opposition no later than February 11, 2017. Signed by Judge Royce C. Lamberth on 12/29/16. (zlsj) (Entered: 12/29/2016)
12/29/2016		Set/Reset Deadlines: Responses to Plaintiff's Motion for an Award of Litigation Costs, including Attorneys' Fees and Related Expenses due by 2/11/2017. (zlsj) (Entered: 12/29/2016)
12/30/2016	544	NOTICE of Filing Report Describing Compliance with Programmatic Requirements by

		<p style="color: red; text-align: center;">USCA Case #18-7076 Document #1732651 Filed 05/21/2018 Page 89 of 572</p> <p style="text-align: center;">DISTRICT OF COLUMBIA, DEBORAH GIST, MICHELLE RHEE (Attachments: # 1 Exhibit Report Describing Compliance with Programmatic Requirements)(Copeland, Chad) (Entered: 12/30/2016)</p>
01/12/2017	545	Consent MOTION for Order <i>Regarding Notice to Subclass Members Related to Plaintiffs' Motion for an Award of Litigation Costs, Including Attorneys' Fees and Related Expenses</i> by LEAH BLAND, DORIS COCKRELL, FREDERICK DAVY, MONICA DAVY, DC, DL, FD, TAMEKA FORD, HW, JB, TIMOTHY LANTRY, DARWIN LAZO, ARLETTE MANKEMI, ANGELIQUE MOORE, OUL, KERIANNE PIESTER, TF, TL, ELIZABETH UMANA-LAZO, RONALD WISOR, XY, BRYAN YOUNG, TAMMIKA YOUNG (Attachments: # 1 Text of Proposed Order)(Terris, Bruce) (Entered: 01/12/2017)
01/26/2017	546	ORDER granting 545 Motion for Order. SEE CLASS ACTION NOTICE PROVIDED ON COURT'S WEBSITE. Signed by Judge Royce C. Lamberth on 1/23/17. (zlsj) (Entered: 01/26/2017)
02/06/2017	547	NOTICE of Appearance by Carolyn Smith Pravlik on behalf of All Plaintiffs (Pravlik, Carolyn) (Entered: 02/06/2017)
02/06/2017	548	NOTICE of Appearance by Kathleen Lillian Millian on behalf of All Plaintiffs (Millian, Kathleen) (Entered: 02/06/2017)
02/06/2017	549	NOTICE OF WITHDRAWAL OF APPEARANCE as to LEAH BLAND, FREDERICK DAVY, MONICA DAVY, DL, FD, TAMEKA FORD, HW, JB, TIMOTHY LANTRY, ARLETTE MANKEMI, ANGELIQUE MOORE, KERIANNE PIESTER, TF, TL, RONALD WISOR, XY, BRYAN YOUNG, TAMMIKA YOUNG. Attorney Bruce J. Terris terminated. (Gluckman, Todd) (Entered: 02/06/2017)
02/06/2017		NOTICE OF AMENDED CLASS ACTION NOTICE ON COURT'S WEBSITE re 546 Order on Motion for Order. (zlsj) (Entered: 02/06/2017)
02/06/2017	550	Consent MOTION to Modify <i>Reporting Period</i> by DISTRICT OF COLUMBIA, DEBORAH GIST, CLIFFORD B. JANEY, MICHELLE RHEE (Attachments: # 1 Exhibit Limited Remand from D.C. Circuit)(Copeland, Chad) (Entered: 02/06/2017)
02/07/2017	551	NOTICE (<i>Praecipe Regarding Notice to Subclass Members Related to Plaintiffs' Motion for an Award of Litigation Costs, Including Attorneys' Fees and Related Expenses</i>) by LEAH BLAND, FREDERICK DAVY, MONICA DAVY, DL, FD, TAMEKA FORD, HW, JB, TIMOTHY LANTRY, ARLETTE MANKEMI, ANGELIQUE MOORE, KERIANNE PIESTER, TF, TL, RONALD WISOR, XY, BRYAN YOUNG, TAMMIKA YOUNG re 546 Order on Motion for Order (Gluckman, Todd) (Entered: 02/07/2017)
02/07/2017	552	ORDER of USCA ORDERED that the motion for limited remand be granted in light of the district court's indicative order filed December 29, 2016 and that this case remain on the court's March 31, 2017 oral argument calendar, as the court anticipates that the district court will act promptly as to 534 Notice of Appeal to DC Circuit Court filed by MICHELLE RHEE, DISTRICT OF COLUMBIA, CLIFFORD B. JANEY, DEBORAH GIST. USCA Case Number 16-7076. (zrdj) (Entered: 02/09/2017)
02/10/2017	553	Consent MOTION for Leave to File Excess Pages by DISTRICT OF COLUMBIA, DEBORAH GIST, CLIFFORD B. JANEY, MICHELLE RHEE (Copeland, Chad) (Entered: 02/10/2017)
02/11/2017	554	Memorandum in opposition to re 537 MOTION for Attorney Fees filed by DISTRICT OF COLUMBIA. (Attachments: # 1 Exhibit 1: Blackman-Jones Attorneys Fee Petition Summary, # 2 Exhibit 2: Mot. for Attorneys Fees in Petties, # 3 Exhibit 3: LaShawn Attorneys Fees Settlement Agreement, # 4 Exhibit 4: Evans Attorneys Fees Letters, # 5 Exhibit 5: Decl. of Mark Tuohey, # 6 Exhibit 6: Decl. of Robert Deso, # 7 Exhibit 7: Jones Revised Billing Statement, # 8 Exhibit 8: Adgerson Attorneys Fees Letter, # 9 Exhibit 9: Salazar Consent Decree, # 10 Exhibit 10: Salazar Fee Petition, # 11 Exhibit 11: Decl. of Dr. Laura Malowane,

		<p style="color: red; text-align: center;">USCA Case #18-7004 Document #1732051 Filed 05/11/2018 Page 90 of 573</p> <p>#12 Exhibit 12: Decl. of Wallace Christensen, #13 Exhibit 13: Georgetown Report on the State of the Legal Market, #14 Exhibit 14: Trial Transcript (April 6, 2011))(Blecher, Matthew) (Entered: 02/11/2017)</p>
02/15/2017	555	ORDER granting 550 Motion to Modify. Signed by Judge Royce C. Lamberth on 2/15/2017. (lcrcl2) (Entered: 02/15/2017)
02/15/2017	556	ORDER granting 553 Motion for Leave to File Excess Pages. Signed by Judge Royce C. Lamberth on 2/15/2017. (lcrcl2) (Entered: 02/15/2017)
02/17/2017	557	Supplemental Record on Appeal transmitted to US Court of Appeals re 555 Order on Motion to Modify ;USCA Case Number 16-7076. (td) (Entered: 02/17/2017)
02/17/2017	558	Consent MOTION for Extension of Time to File Response/Reply as to 537 MOTION for Attorney Fees by LEAH BLAND, DORIS COCKRELL, FREDERICK DAVY, MONICA DAVY, DC, DL, FD, TAMEKA FORD, HW, JB, TIMOTHY LANTRY, DARWIN LAZO, ARLETTE MANKEMI, ANGELIQUE MOORE, OUL, KERIANNE PIESTER, TF, TL, ELIZABETH UMANA-LAZO, RONALD WISOR, XY, BRYAN YOUNG, TAMMIKA YOUNG (Attachments: # 1 Text of Proposed Order)(Gluckman, Todd) (Entered: 02/17/2017)
02/24/2017	559	ORDER granting 558 Motion for Extension of Time to File Response/Reply. Signed by Judge Royce C. Lamberth on 2/24/2017. (lcrcl2) (Entered: 02/24/2017)
02/28/2017	560	ERRATA by DISTRICT OF COLUMBIA, DEBORAH GIST, MICHELLE RHEE 537 MOTION for Attorney Fees filed by ANGELIQUE MOORE, JB, TIMOTHY LANTRY, DL, TF, TAMEKA FORD, XY, DC, FD, DARWIN LAZO, BRYAN YOUNG, DORIS COCKRELL, FREDERICK DAVY, TL, TAMMIKA YOUNG, ELIZABETH UMANA-LAZO, LEAH BLAND, HW, OUL, RONALD WISOR, MONICA DAVY, ARLETTE MANKEMI, KERIANNE PIESTER. (Attachments: # 1 Exhibit Signed Declaration of Wallace A Christensen)(Copeland, Chad) (Entered: 02/28/2017)
03/01/2017	561	NOTICE of Filing Report Describing Compliance with Programmatic Requirements by DISTRICT OF COLUMBIA, DEBORAH GIST, MICHELLE RHEE (Attachments: # 1 Exhibit February 28, 2017 Programmatic Report)(Copeland, Chad) (Entered: 03/01/2017)
04/04/2017	562	NOTICE Regarding Passage of Time for Objections by Subclass Members to Plaintiffs' Motion for an Award of Litigation Costs, Including Attorneys' Fees and Related Expenses by LEAH BLAND, FREDERICK DAVY, MONICA DAVY, DL, FD, TAMEKA FORD, HW, JB, TIMOTHY LANTRY, ARLETTE MANKEMI, ANGELIQUE MOORE, KERIANNE PIESTER, TF, TL, RONALD WISOR, XY, BRYAN YOUNG, TAMMIKA YOUNG re 546 Order on Motion for Order (Attachments: # 1 Exhibit 1)(Gluckman, Todd) (Entered: 04/04/2017)
04/18/2017	563	Consent MOTION for Leave to File Excess Pages by LEAH BLAND, DORIS COCKRELL, FREDERICK DAVY, MONICA DAVY, DC, DL, FD, TAMEKA FORD, HW, JB, TIMOTHY LANTRY, DARWIN LAZO, ARLETTE MANKEMI, ANGELIQUE MOORE, OUL, KERIANNE PIESTER, TF, TL, ELIZABETH UMANA-LAZO, RONALD WISOR, XY, BRYAN YOUNG, TAMMIKA YOUNG (Attachments: # 1 Text of Proposed Order) (Gluckman, Todd) (Entered: 04/18/2017)
04/27/2017	564	Civil Statement of Interest of the United States from United States. (Pfaffenroth, Peter) (Entered: 04/27/2017)
04/28/2017	565	ORDER granting 563 Motion for Leave to File Excess Pages. ORDERED that Plaintiffs' Reply Brief in Support of Their Motion for an Award of Litigation costs, Including Attorneys' Fees and Related Expenses may exceed the page limit set by Local Rule 7(e) by no more than 15 pages. Signed by Judge Royce C. Lamberth on 4/27/17. (lsj) (Entered: 04/28/2017)
05/01/2017	566	REPLY to opposition to motion re 537 MOTION for Attorney Fees filed by LEAH BLAND, DORIS COCKRELL, FREDERICK DAVY, MONICA DAVY, DC, DL, FD, TAMEKA FORD, HW, JB, TIMOTHY LANTRY, DARWIN LAZO, ARLETTE MANKEMI,

ANGELIQUE MOORE, OUL, KERIANNE PIESTER, TF, TL, ELIZABETH UMANA-LAZO, RONALD WISOR, XY, BRYAN YOUNG, TAMMIKA YOUNG. (Attachments: # [1](#) Exhibit Revised Exhibit 4 - Revised Summary of Fees and Expenses (Period 1 and Period 2), # [2](#) Exhibit 69 (Affidavit of Todd A. Gluckman), # [3](#) Exhibit 70 (Second Affidavit of Carolyn Smith Pravlik), # [4](#) Exhibit 71 (Second Affidavit of Jeffrey S. Gutman), # [5](#) Exhibit 72 (Second Affidavit of Margaret A. Kohn), # [6](#) Exhibit 73 (Second Affidavit of Bruce MacEwen), # [7](#) Exhibit 74 (Affidavit of Robert Mattern), # [8](#) Exhibit 75 (Affidavit of Bradford Johnson), # [9](#) Exhibit 76 (E-mail from T. Lewis (OSSE) to B. Colleye, et al., Re: Expert statement, Aug. 19, 2009, and preceding e-mail chain), # [10](#) Exhibit 77 (Excerpts of deposition transcripts in DL v. District of Columbia), # [11](#) Exhibit 78 (Second Declaration of Michael Kavanaugh), # [12](#) Exhibit 79 (Update of Valeo Rates Data from Plaintiffs Exhibit 53), # [13](#) Exhibit 80 (Update of Valeo Rates Data from Plaintiffs Exhibit 53 Excluding Bankruptcy Rates Data), # [14](#) Exhibit 81 (2011 ALM Legal Intelligence Survey of Law Firm Economics (2011 ALM SLFE) (excerpt)), # [15](#) Exhibit 82 (2011 ALM SLFE Questionnaire), # [16](#) Exhibit 83 (2011 ALM SLFE Instructions), # [17](#) Exhibit 84 (Rates Table from 2011 ALM Survey relied upon by Dr. Malowane), # [18](#) Exhibit 85 (Email from Chad Copeland with 2011 ALM Survey page relied upon by Dr. Malowane, March 7, 2017), # [19](#) Exhibit 86 (Email from Carolyn Smith Pravlik requesting materials from 2011 ALM Survey supporting statements by Dr. Malowane, March 7, 2017), # [20](#) Exhibit 87 (Email from Chad Copeland reporting no further documents relied upon by Dr. Malowane, March 10, 2017), # [21](#) Exhibit 88 (Email from Chad Copeland reporting that the page from the 2011 ALM SLFE is a custom report, March 24, 2017), # [22](#) Exhibit 89 (FOIA Request for 2011 ALM SLFE data underlying USAO Matrix 2015-2017), # [23](#) Exhibit 90 (DOJ Response to FOIA Request), # [24](#) Exhibit 91 (2011 Materials from the DOJ Response to the FOIA Request), # [25](#) Exhibit 92 (Emails with ALM Legal Intelligence regarding the scope of the geography for the Washington, D.C. metro area as used in the 2011 ALM SLFE custom report relied upon by Dr. Malowane), # [26](#) Exhibit 93 (Twenty-Fourth Consent Motion of Defendant Newsham For Approval of Payment of Interim Attorney Fees, filed in Chang v. United States, Civ. No. 02-02010 (JMF), ECF No. 890), # [27](#) Exhibit 94 (Nineteenth Consent Motion of Defendant Charles H. Ramsey for Approval of Payment of Interim Attorney Fees, filed in Chang v. United States, Civ. No. 02-02010 (JMF), ECF No. 908), # [28](#) Exhibit 95 (Email from Todd Gluckman requesting materials related to the Districts fee opposition, including materials relied upon by Dr. Malowane, February 21, 2017), # [29](#) Exhibit 96 (2014 ALM Legal Intelligence Survey of Law Firm Economics (2014 ALM SLFE) (excerpt)), # [30](#) Exhibit 97 (2014 ALM SLFE Questionnaire), # [31](#) Exhibit 98 (2014 ALM SLFE Instructions), # [32](#) Exhibit 99 (Declaration of Dr. Laura A. Malowane, Makray v. Perez, Civ. No. 12-00520 (BAH), ECF No. 88-1 (excerpt)), # [33](#) Exhibit 100 (Declaration of Dr. Laura A. Malowane, CREW v. U.S. DOJ, Civ. No. 12-1491 (JDB), ECF No. 46-1 (also submitted in EPIC v. Dept of Homeland Security, Civ. No. 12-0333 (GK), ECF No. 86-4) (excerpt)), # [34](#) Exhibit 101 (Salazar v. D.C., Civ. No. 93-452, Order, April 7, 2014, ECF No. 1973 (Order corresponding to Salazar v. D.C., 30 F. Supp. 3d 47 (D.D.C. 2014))), # [35](#) Exhibit 102 (Summary of Additional Reductions of Time and Expenses from Plaintiffs Reply in Support of Plaintiffs 2016 Fee Application), # [36](#) Exhibit 103 (Exhibits A and B to the Expert Report of Carl Dunst, May 11, 2009), # [37](#) Exhibit 104 (U.S. Census Bureau, District of Columbia, 2000-2010 Population Estimates), # [38](#) Exhibit 105 (DCPS Guidelines for the Payment of Attorneys Fees in IDEA Cases, Nov. 1, 2011), # [39](#) Exhibit 106 (Affidavit of Dr. Michael Kavanaugh, Salazar v. District of Columbia, Civ. No. 93-452 (GK), ECF No. 1587-3), # [40](#) Exhibit 107 (U.S. Department of Education Annual Reports to Congress on the Implementation of the IDEA (2006, 2007, 2008, 2009) (excerpts)), # [41](#) Exhibit 108 (Email from Chad Copeland related to data relied upon by Dr. Malowane, April 10, 2017), # [42](#) Text of Proposed Order)(Gluckman, Todd) (Entered: 05/01/2017)

05/01/2017

[567](#)

MOTION for a Status Conference by LEAH BLAND, DORIS COCKRELL, FREDERICK DAVY, MONICA DAVY, DC, DL, FD, TAMEKA FORD, HW, JB, TIMOTHY LANTRY, DARWIN LAZO, ARLETTE MANKEMI, ANGELIQUE MOORE, OUL, KERIANNE PIESTER, TF, TL, ELIZABETH UMANA-LAZO, RONALD WISOR, XY, BRYAN

USCA Case #18-7004 Document #1732051 Attachments: #1 Text of Proposed Order (Gluckman, Todd) Filed: 05/21/2018 Page 82 of 572		
		YOUNG, TAMMIKA YOUNG (Attachments: # 1 Text of Proposed Order)(Gluckman, Todd) (Entered: 05/01/2017)
05/15/2017	568	Memorandum in opposition to re 567 MOTION for a Status Conference filed by DISTRICT OF COLUMBIA, DEBORAH GIST, CLIFFORD B. JANEY, MICHELLE RHEE. (Copeland, Chad) (Entered: 05/15/2017)
05/18/2017	569	REPLY to opposition to motion re 567 MOTION for a Status Conference filed by LEAH BLAND, DORIS COCKRELL, FREDERICK DAVY, MONICA DAVY, DC, DL, FD, TAMEKA FORD, HW, JB, TIMOTHY LANTRY, DARWIN LAZO, ARLETTE MANKEMI, ANGELIQUE MOORE, OUL, KERIANNE PIESTER, TF, TL, ELIZABETH UMANA-LAZO, RONALD WISOR, XY, BRYAN YOUNG, TAMMIKA YOUNG. (Gluckman, Todd) (Entered: 05/18/2017)
05/23/2017	570	ORDER denying 567 Motion for Status Conference. SEE ORDER FOR FULL DETAILS. Signed by Judge Royce C. Lamberth on 5/22/17. (lsj) (Entered: 05/23/2017)
06/05/2017	571	RESPONSE re 564 to the <i>Statement of Interest of the United States</i> filed by LEAH BLAND, DORIS COCKRELL, FREDERICK DAVY, MONICA DAVY, DC, DL, FD, TAMEKA FORD, HW, JB, TIMOTHY LANTRY, DARWIN LAZO, ARLETTE MANKEMI, ANGELIQUE MOORE, OUL, KERIANNE PIESTER, TF, TL, ELIZABETH UMANA-LAZO, RONALD WISOR, XY, BRYAN YOUNG, TAMMIKA YOUNG. (Attachments: # 1 Exhibit 109 (Joint Appendix Volume I (Covington), filed in the Court of Appeals in Covington v. D.C., Appeal Nos. 94-7014, 94-7022, consolidated with Appeal Nos. 94-7015 and 94-7107), # 2 Exhibit 110 (Affidavit of Eileen T. McDonough, July 5, 1987, Hobson v. Brennan, Civ. No. 76-1326 (LFO)), # 3 Exhibit 111 (Affidavit of Daniel A. Rezneck, July 29, 1987, Hobson v. Brennan, Civ. No. 76-1326 (LFO)), # 4 Exhibit 112 (Fourth Supplemental Declaration of Joseph A. Yablonski and Plaintiffs Market-Rate Exhibits, Brown v. Pro Football, Inc., Case No. 90-1071 (RCL)), # 5 Exhibit 113 (Affidavit of Bradley G. McDonald, April 26, 1988, Palmer v. Shultz, Civ. No. 76-1439 (JLS)), # 6 Exhibit 114 (Affidavit of Arthur F. Mathews, April 17, 1985, Jenkins v. Massinga, Civ. No. M-83-4134), # 7 Exhibit 115 (Affidavit of Dr. Michael Kavanaugh, April 25, 2012, DL v. District of Columbia, ECF No. 325-32), # 8 Exhibit 116 (Docket from DL v. D.C. (excerpts)), # 9 Exhibit 117 (Legends in the Law: Daniel A. Rezneck), # 10 Exhibit 118 (Daniel Rezneck Bar Information), # 11 Exhibit 119 (Roger E. Warin Biography), # 12 Exhibit 120 (USAO Laffey Matrix 1981-1992), # 13 Exhibit 121 (U.S. Department of Labor Program Highlights, The 1998 CPI Revision: Changes in Available Data Series), # 14 Exhibit 122 (U.S. Census Bureau, Metropolitan Areas and Components, 1990 (excerpt)), # 15 Exhibit 123 (U.S. Census Bureau, Metropolitan Areas and Components, 1999 (excerpt)), # 16 Exhibit 124 (Third Affidavit of Carolyn Smith Pravlik), # 17 Exhibit 125 (Order Granting in Part Plaintiffs Motion for an Award of Attorneys Fees and Costs, Clemente v. FBI, Case No. 08-1252, March 24, 2017), # 18 Exhibit 126 (James Bierbower; Lawyer in High-Profile Cases, The Washington Post, February 10, 2005), # 19 Exhibit 127 (Zuckerman Spaeder LLP Practice Areas), # 20 Exhibit 128 (Joint Appendix Volume III (Galloway), filed in the Court of Appeals in Covington v. D.C., Appeal Nos. 94-7014, 94-7022, consolidated with Appeal Nos. 94-7015 and 94-7107), # 21 Certificate of Service)(Gluckman, Todd) Modified to add link on 6/6/2017 (znmw). (Entered: 06/05/2017)
06/06/2017	572	MOTION for Extension of Time to File <i>Statement of Interest Reply</i> from United States. (Attachments: # 1 Text of Proposed Order)(Pfaffenroth, Peter) Modified event title on 6/7/2017 (znmw). (Entered: 06/06/2017)
06/07/2017	573	RESPONSE re 572 MOTION for Extension of Time to File filed by LEAH BLAND, DORIS COCKRELL, FREDERICK DAVY, MONICA DAVY, DC, DL, FD, TAMEKA FORD, HW, JB, TIMOTHY LANTRY, DARWIN LAZO, ARLETTE MANKEMI, ANGELIQUE MOORE, OUL, KERIANNE PIESTER, TF, TL, ELIZABETH UMANA-LAZO, RONALD WISOR, XY, BRYAN YOUNG, TAMMIKA YOUNG. (Attachments: # 1 Text of Proposed Order, # 2 Certificate of Service)(Gluckman, Todd) (Entered: 06/07/2017)

06/23/2017	574	REPLY re 571 Response to Document, 574 Civil Statement of Interest of the United States filed by UNITED STATES OF AMERICA. (Pfaffenroth, Peter) (Entered: 06/23/2017)
06/27/2017	575	ORDER granting nunc pro tunc 572 Motion for Extension of Time to File. Signed by Judge Royce C. Lamberth on 6/25/17. (lsj) (Entered: 06/27/2017)
07/27/2017	576	ORDER TO SHOW CAUSE. See full Order for details. Signed by Judge Royce C. Lamberth on 7/27/2017. (lrc13) (Entered: 07/27/2017)
08/03/2017	577	RESPONSE TO ORDER OF THE COURT re 576 Order to Show Cause filed by LEAH BLAND, FREDERICK DAVY, MONICA DAVY, DL, FD, TAMEKA FORD, HW, JB, TIMOTHY LANTRY, ARLETTE MANKEMI, ANGELIQUE MOORE, KERIANNE PIESTER, TF, TL, RONALD WISOR, XY, BRYAN YOUNG, TAMMIKA YOUNG. (Attachments: # 1 Exhibit 129 (Second Affidavit of Todd A. Gluckman))(Gluckman, Todd) (Entered: 08/03/2017)
08/03/2017	578	RESPONSE TO ORDER OF THE COURT re 576 Order to Show Cause filed by DISTRICT OF COLUMBIA, DEBORAH GIST, CLIFFORD B. JANEY, MICHELLE RHEE. (Copeland, Chad) (Entered: 08/03/2017)
08/03/2017	586	MANDATE of USCA as to 534 Notice of Appeal to DC Circuit Court filed by MICHELLE RHEE, DISTRICT OF COLUMBIA, CLIFFORD B. JANEY, DEBORAH GIST. USCA Case Number 16-7076. (Attachments: # 1 judgment filed June 23, 2017)(zrdj) (Entered: 09/29/2017)
08/25/2017	579	ORDER granting in part and denying in part 537 Motion for Attorney Fees. Plaintiffs shall submit a revised calculation within 10 days. See Order for details. Signed by Judge Royce C. Lamberth on 8/25/2017. (lrc13) (Entered: 08/25/2017)
08/25/2017	580	MEMORANDUM OPINION re 537 Motion for Attorney's Fees. Signed by Judge Royce C. Lamberth on 8/25/2017. (lrc13) (Entered: 08/25/2017)
08/28/2017	581	NOTICE of Change of Address by Todd A. Gluckman (Gluckman, Todd) (Entered: 08/28/2017)
08/31/2017	582	Consent MOTION for Scheduling Order (<i>to Revise the Schedule Related to Fee and Expense Calculations</i>) by LEAH BLAND, DORIS COCKRELL, FREDERICK DAVY, MONICA DAVY, DC, DL, FD, TAMEKA FORD, HW, JB, TIMOTHY LANTRY, DARWIN LAZO, ARLETTE MANKEMI, ANGELIQUE MOORE, OUL, KERIANNE PIESTER, TF, TL, ELIZABETH UMANA-LAZO, RONALD WISOR, XY, BRYAN YOUNG, TAMMIKA YOUNG (Attachments: # 1 Text of Proposed Order)(Gluckman, Todd) (Entered: 08/31/2017)
08/31/2017	583	NOTICE by DISTRICT OF COLUMBIA, DEBORAH GIST, MICHELLE RHEE (Attachments: # 1 Exhibit August 31, 2017 Numerical and Programmatic Report, # 2 Appendix OSSE Dear Colleague Letter)(Copeland, Chad) (Entered: 08/31/2017)
09/01/2017	584	ORDER granting 582 Motion for Scheduling Order Related to Fee and Expense Calculation. Further ORDERED that Plaintiffs shall submit a revised calculation by 9/13/2017. Defendants shall respond by 9/29/2017. Plaintiffs shall reply in support by 10/6/2017. Signed by Judge Royce C. Lamberth on 9/1/17. (lsj) (Entered: 09/01/2017)
09/13/2017	585	MEMORANDUM re 580 Memorandum & Opinion, 579 Order on Motion for Attorney Fees by LEAH BLAND, DORIS COCKRELL, FREDERICK DAVY, MONICA DAVY, DC, DL, FD, TAMEKA FORD, HW, JB, TIMOTHY LANTRY, DARWIN LAZO, ARLETTE MANKEMI, ANGELIQUE MOORE, OUL, KERIANNE PIESTER, TF, TL, ELIZABETH UMANA-LAZO, RONALD WISOR, XY, BRYAN YOUNG, TAMMIKA YOUNG. (Attachments: # 1 Exhibit 130 (USAO Attorneys Fees Matrix2015-2018), # 2 Exhibit 131 (Plaintiffs Timekeeper Chart), # 3 Exhibit 132 (Summary of Fees and Expenses - Period 1 and Period 2, Revised Pursuant to the Courts August 25, 2017 Decision), # 4 Exhibit 133 (TPM Summary of Time by Category (Period 1)), # 5 Exhibit 134 (TPM Time Records by Category (Period 1)), # 6 Exhibit 135 (TPM No Charge Time Records (Period 1)), # 7 Exhibit 136

		(TPM Reductions of Time and Expenses from Plaintiffs Reply in Support of Plaintiffs 2012 Fee Application (Period 1)), # 8 Exhibit 137 (TPM Summary of Additional Reductions of Time and Expenses with Plaintiffs 2016 Fee Application (Period 1)), # 9 Exhibit 138 (TPM Summary of Time by Billing Client and Category (Period 2)), # 10 Exhibit 139 (TPM Time Records by Billing Client and Category (Period 2)), # 11 Exhibit 140 (TPM No Charge Time Records (Period 2)), # 12 Exhibit 141 (Third Affidavit of Margaret Kohn), # 13 Exhibit 142 (Plaintiffs Summary of Additional Reductions of Time and Expenses with Reply Brief in Support of Plaintiffs 2016 Application), # 14 Text of Proposed Order)(Gluckman, Todd) (Entered: 09/13/2017)
09/29/2017	587	RESPONSE re 585 Memorandum,,,,,, filed by DISTRICT OF COLUMBIA, DEBORAH GIST, CLIFFORD B. JANEY, MICHELLE RHEE. (Copeland, Chad) (Entered: 09/29/2017)
10/05/2017	588	REPLY re 585 Memorandum,,,,,, filed by LEAH BLAND, DORIS COCKRELL, FREDERICK DAVY, MONICA DAVY, DC, DL, FD, TAMEKA FORD, HW, JB, TIMOTHY LANTRY, DARWIN LAZO, ARLETTE MANKEMI, ANGELIQUE MOORE, OUL, KERIANNE PIESTER, TF, TL, ELIZABETH UMANA-LAZO, RONALD WISOR, XY, BRYAN YOUNG, TAMMIKA YOUNG. (Attachments: # 1 Exhibit 143 (Third Affidavit of Todd A. Gluckman), # 2 Exhibit 144 (Emails between Chad Copeland and Todd Gluckman, December 2016), # 3 Exhibit 145 (Emails between Chad Copeland and Todd Gluckman, September 2017), # 4 Exhibit 146 (Email from Todd Gluckman to Chad Copeland, September 13, 2017))(Gluckman, Todd) (Entered: 10/05/2017)
10/31/2017	589	SUPPLEMENTAL MEMORANDUM to re 583 Notice (Other) filed by DISTRICT OF COLUMBIA. (Blecher, Matthew) (Entered: 10/31/2017)
12/15/2017	590	ORDER re 537 MOTION for Attorney Fees . It is hereby ORDERED that the Defendants pay Plaintiffs a total of \$6,961,480.45 Signed by Judge Royce C. Lamberth on 12/15/17. (lsj) (Entered: 12/15/2017)
01/10/2018	591	NOTICE OF APPEAL TO DC CIRCUIT COURT as to 590 Order, 580 Memorandum & Opinion, 579 Order on Motion for Attorney Fees by LEAH BLAND, DORIS COCKRELL, FREDERICK DAVY, MONICA DAVY, DC, DL, FD, TAMEKA FORD, HW, JB, TIMOTHY LANTRY, DARWIN LAZO, ARLETTE MANKEMI, ANGELIQUE MOORE, OUL, KERIANNE PIESTER, TF, TL, ELIZABETH UMANA-LAZO, RONALD WISOR, XY, BRYAN YOUNG, TAMMIKA YOUNG. Filing fee \$ 505, receipt number 0090-5280232. Fee Status: Fee Paid. Parties have been notified. (Gluckman, Todd) (Entered: 01/10/2018)
01/11/2018	592	Transmission of the Notice of Appeal, Order Appealed (Memorandum Opinion), and Docket Sheet to US Court of Appeals. The Court of Appeals fee was paid this date re 591 Notice of Appeal to DC Circuit Court. (znmw) (Entered: 01/11/2018)
01/17/2018		USCA Case Number 18-7004 for 591 Notice of Appeal to DC Circuit Court, filed by ANGELIQUE MOORE, JB, TIMOTHY LANTRY, DL, TF, TAMEKA FORD, XY, DC, FD, DARWIN LAZO, BRYAN YOUNG, DORIS COCKRELL, FREDERICK DAVY, TL, TAMMIKA YOUNG, ELIZABETH UMANA-LAZO, LEAH BLAND, HW, OUL, RONALD WISOR, MONICA DAVY, ARLETTE MANKEMI, KERIANNE PIESTER. (zrdj) (Entered: 01/17/2018)
02/28/2018	593	NOTICE of Filing Report Describing Compliance with Programmatic Requirements by DISTRICT OF COLUMBIA, DEBORAH GIST, MICHELLE RHEE (Attachments: # 1 Exhibit Report on Programmatic Compliance)(Copeland, Chad) (Entered: 02/28/2018)

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UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

_____)
DL, XY, HW, TL, JB, FD, TF,)
by their parents and next friends:)
)
Tameka Ford)
2412 Elvans Road, S.E., Apt. 403)
Washington, DC 20020,)
)
Tammika and BryanYoung)
428 Randolph Street, N.W.)
Washington, DC 20011,)
)
Kerianne Piester and Ronald Wisor)
6200 29th Street, N.W.)
Washington, DC 20015,)
)
Arlette Mankemi and Timothy Lantry)
1305 Maryland Avenue, N.E.)
Washington, DC 20002,)
)
Leah Bland)
2413 Alabama Avenue, S.E.)
Washington, DC 20020,)
)
Frederick and Monica Davy)
6933 9th Street N.W.)
Washington, DC 20012,)
)
Angelique Moore)
2436 Wagner Street, S.E., Apartment B)
Washington, DC 20020,)
)
on their own behalf and on)
behalf of a class of similarly situated individuals,)
)
Plaintiffs,)
)
v.)
)

THE DISTRICT OF COLUMBIA,)
a municipal corporation)
1350 Pennsylvania Ave, N.W., Suite #419)
Washington, DC 20004,)
)
and)
)
CLIFFORD B. JANEY in his)
official capacity as Superintendent)
of District of Columbia Public Schools)
825 North Capitol Street, N.E.,)
9th Floor)
Washington, DC 20002,)
)
Defendants.)
_____)

**SECOND AMENDED COMPLAINT FOR DECLARATORY
AND INJUNCTIVE RELIEF**

INTRODUCTION

1. Plaintiffs, on behalf of themselves and others similarly situated, bring this action under 42 U.S.C. 1983 for declaratory, injunctive, and compensatory relief to challenge defendants’ policy, pattern, and practice of failing to identify, locate, evaluate, and offer special education and related services to children with disabilities in the District of Columbia who are between the ages of three and five years old, inclusive (hereinafter “preschool children”). Defendants’ actions violate the Individuals with Disabilities in Education Act (“IDEA”), 20 U.S.C. 1400, *et seq.*, Section 504 of the Rehabilitation Act, 29 U.S.C. 794(a), implementing regulations, the Due Process Clause of the Fifth Amendment, and District of Columbia law.

2. Named plaintiffs are current or former preschool children with sensory, emotional, physical, cognitive, developmental, or language disabilities who tried to obtain special education and related services from the District of Columbia Public Schools (“DCPS”) or wanted to obtain these

services as preschool children, but have been denied, delayed, or otherwise deprived of access to these services because of defendants' systemic failures to comply with federal and District of Columbia law.

3. The IDEA, the Rehabilitation Act, federal implementing regulations, and District of Columbia law require that the District of Columbia offer a "free appropriate public education" ("FAPE") to children identified as disabled, including to preschool children. To that end, these laws require that the District of Columbia take concrete steps to identify, locate, evaluate, and offer special education and related services to all preschool children in the District of Columbia with disabilities who need these services. Known as the "Child Find" duty, this mandate includes ensuring that disabled infants and toddlers who received special education services under Part C of the IDEA continue to receive them after their third birthday under Part B of the IDEA. Defendants have a policy, pattern, and practice of failing to comply with their Child Find duty. Defendants' failures are numerous, knowing, pervasive, and systemic. Defendants' actions demonstrate gross misjudgment and have caused substantial harm to hundreds of young children in the District of Columbia by jeopardizing their educational opportunities and by denying them a right to a free appropriate public education.

JURISDICTION AND VENUE

4. This action is brought under 42 U.S.C. 1983 to enforce the IDEA, 20 U.S.C. 1400, *et seq.*, and the Due Process Clause of the Fifth Amendment, and under Section 504 of the Rehabilitation Act, 29 U.S.C. 794(a). The Court has jurisdiction under 28 U.S.C. 1331, 1343, and 1367. Venue is proper under 28 U.S.C. 1391.

PARTIES

Plaintiffs

DL

5. DL^{1/} is a five-year-old boy who was born in 2001. He resides in Washington, D.C. He sues by his mother and next friend, Tameka Ford.

6. DL suffers from a qualifying disability under the IDEA. He has documented developmental delays and has been diagnosed with Attention Deficit Hyperactivity Disorder (“ADHD”). He exhibits significant behavioral and emotional problems, as well as speech and language delays. He has had a history of aggressive behavior, which includes hitting, biting, and fighting with his teachers and with other children. In the past, he has punched himself in the face repeatedly until he falls down exhausted, often lying still for long periods of time after these incidents.

7. Defendants have known since at least June 2004 that DL has had a qualifying disability and nevertheless failed for over a year to take steps to comply with their Child Find and FAPE requirements.

8. When DL was three years old, he began attending Bright Beginnings, a daycare center for transitional and homeless children in the District of Columbia. Soon thereafter, he was evaluated at Georgetown Medical Center for developmental delays. The evaluations confirmed that DL needed speech, language, occupational and cognitive therapies.

9. In June 2004, Bright Beginnings convened a meeting, known as an Individualized Education Program (“IEP”) meeting. The purpose of the meeting was to discuss the evaluations and to determine what type of special education services DL needed. Bright Beginnings sent a formal request to DCPS to attend the IEP meeting. DCPS refused to attend. During the meeting, the

^{1/} Pursuant to Local Rule 5.4(f)(2), minors are identified by their initials in this Complaint.

participants agreed that DL should receive speech, language, occupational therapy and counseling services.

10. In December 2004, DL was removed from Bright Beginnings. DL's mother, Tameka Ford, attempted to re-enroll DL in Bright Beginnings, but the center would not accept him because of his behavioral problems.

11. In February 2005, DL's mother and social worker registered DL with DCPS at the Central Assessment Referral and Evaluations ("CARE") Center of the DCPS. They requested special education and related services for DL. They gave DCPS prior evaluations of DL and signed papers consenting to have DL evaluated by DCPS. DCPS did not act on this request for special education and related services.

12. In the spring of 2005, an advocate with For Love of Children ("FLOC"), a non-profit organization that provides services to at risk families in the District of Columbia, contacted DCPS on numerous occasions to urge DCPS to act on Ms. Ford's request for special education services. DCPS did not respond to these requests.

13. In the spring of 2005, Ms. Ford enrolled DL in two private preschools while waiting for DCPS to identify, locate, evaluate, and offer DL special education and related services. Both preschools expelled DL for behavioral problems.

14. In June 2005, after receiving no response from DCPS, DL's *guardian ad litem* requested a due process hearing to challenge DCPS's failure to evaluate or offer special education services to DL.

15. On August 24, 2005, and as a result of the scheduled due process hearing, DCPS convened an eligibility meeting for DL. DCPS determined that DL qualified for special education and

related services as a child with developmental delays. DCPS drafted an IEP, which is an educational plan that set forth the learning goals and educational services that were to be provided to DL. During the meeting and when drafting the IEP, DCPS refused to consider that DL had been diagnosed with ADHD by his doctor and that he exhibited significant socio-emotional and behavior problems. DCPS placed DL at Van Ness Elementary School, which was not an appropriate placement given his socio-emotional and behavior problems.

16. Van Ness Elementary School did not have sufficient staff to comply with DL's IEP or to accommodate his disability. DL's behavior became increasingly aggressive, and he was sent home on numerous occasions.

17. Due process hearings were held in DL's case in September and October 2005 regarding defendants' Child Find failures, including the failure and delays in identification, location, evaluation, eligibility, and placement of DL. The Hearing Officer issued a decision in December 2005 in favor of DL and his mother, finding that DCPS had violated FAPE and Child Find for DL. The Hearing Officer ordered DCPS to provide compensatory education for DL.

18. In December 2005, notwithstanding his IEP and placement at Van Ness Elementary School, Van Ness initiated suspension proceedings against DL because of his behavior problems. With the intervention of counsel, DL was transferred to Moten Elementary School as a temporary, interim placement in lieu of suspension. To date, DL remains at Moten Elementary School on an interim basis and is receiving some services. He is awaiting development of a current and correct IEP and Notice of Placement to reflect his disabilities. DL has exhausted his administrative remedies.

XY

19. XY is a four-year-old boy who was born in 2002. He resides with his mother, Tammika

Thompson-Young, and his father, Bryan Young, in Washington, D.C.

20. XY is disabled. XY suffers from Autism Spectrum Disorder, which was diagnosed by Children's National Medical Center Hospital ("CNMC") in May 2005. XY is non-verbal, very active, not toilet trained, suffers from frequent tantrums, and sleeps for only short periods of time, even at night. In the past, he has hit his face and head against walls and against other objects. He is asthmatic and uses a Nebulizer daily.

21. Defendants have known that XY was disabled and in need of special education and related services since at least 2004. Nevertheless, defendants have failed repeatedly to comply with the Child Find and FAPE requirements for XY.

22. In January 2004, XY received a multi-disciplinary eligibility evaluation from CNMC, which concluded that XY suffered from numerous development delays. Shortly thereafter, and when he was two years old, XY was found eligible for the DC Early Intervention Program ("DCEIP"), which is administered by the District of Columbia Department of Human Services ("DHS") and authorized by Part C of the IDEA. Part C of the IDEA authorizes special education services for disabled infants and toddlers until they reach their third birthday. XY received Part C IDEA services, including speech therapy and special instruction, for eight months through the DCEIP.

23. In October 2004, when XY was two years and eight months old, DCEIP held a transition meeting and asked DCPS representatives to attend. The purpose of the meeting was to ensure that XY was transitioned from DCEIP (*i.e.*, Part C IDEA services) to DCPS (*i.e.*, Part B IDEA services) by his third birthday. DCEIP terminates Part C IDEA special education services once a child reaches his or her third birthday. A DCPS representative attended the transition meeting and was apprised of XY's disability and need for a continuation of services following his third birthday. Nevertheless,

DCPS did not take any steps after this meeting to identify, locate, evaluate, or offer XY special education services.

24. In February 2005, XY turned three years old, and DCEIP terminated his special education services. Because DCPS had failed to take any steps to identify, locate, evaluate, or offer XY special education or related services, DCPS did not continue these services after DCEIP terminated XY's services on his third birthday. XY's parents visited the CARE Center of DCPS on numerous occasions in order to request that DCPS take steps to identify, evaluate, and offer him services. XY's parents visited the CARE Center in June, August, and September 2005. DCPS failed to respond to any of these requests until XY's counsel requested a due process hearing in November 2005 to challenge defendants' Child Find failures.

25. In February and March 2006, two due process hearings were held for XY. The hearing officer determined orally during the hearings that defendants had violated, *inter alia*, the Child Find and FAPE provisions by failing to identify, locate, evaluate, and offer XY special education services within the time frames mandated by federal and District of Columbia law. The judge issued a written decision that ordered DCPS immediately to evaluate XY, develop an appropriate IEP, and offer an appropriate placement. The judge also ordered immediate relief, including compensatory education.

26. Because DCPS subsequently had failed to develop an appropriate IEP or offer an appropriate placement, the parties appeared for a third due process hearing on July 17, 2006. The Hearing Officer ruled in favor of the parents during the hearing. DCPS has not yet complied with this decision. XY and his parents have exhausted their administrative remedies.

HW

27. HW is a six-year-old girl. She resides with her mother, Kerianne Piester, and father,

Ronald Wisor, in Washington, D.C.

28. HW is disabled. She has speech and language delays which impair her ability to participate in the classroom and communicate with others. Speech and language testing revealed that she presents significant receptive, expressive, and articulation delays. She continues to present these delays.

29. DCPS has known about HW's disability since at least January 2005, when HW's mother, Ms. Piester, visited the CARE Center of DCPS to request speech language, occupational, and cognitive evaluations for HW. Since January 2005, Ms. Piester has contacted the CARE Center on numerous occasions to request that DCPS comply with the Child Find requirements and identify, locate, evaluate, and offer HW special education and related services. DCPS completed referral forms for HW in March 2005, but since then, has failed to screen HW, evaluate her, determine her eligibility, convene an IEP meeting, or offer an appropriate educational placement.

30. HW's parents have waited one and a half years for DCPS to comply with its Child Find requirements. In the interim, HW's parents have mortgaged their house to pay privately for the special education and related services she requires. Today, HW's parents are still waiting for DCPS to comply with the Child Find requirements and to evaluate HW, determine her eligibility, develop an IEP, and offer her an appropriate placement.

TL

31. TL is a three year-old boy who resides with his mother, Arlette Mankemi, and his father, Timothy Lantry, in Washington, D.C.

32. TL is disabled. TL was diagnosed in 2005 with a disorder of the vestibular system, including an underlying sensory integration and listening disorder, motor apraxia, and a profile

consistent with Autism Spectrum Disorder. He also suffers from communication deficits characterized by severe delays in the area of expressive and receptive language as well as delays in the area of pragmatics and social interaction skills.

33. Defendants have known that TL was disabled since at least June 2005, when TL began receiving special education services through DCEIP, including occupational therapy and specialized instruction. Nevertheless, DCPS has failed to comply with the Child Find and FAPE requirements as to TL.

34. In November 2005, a transition meeting was held to discuss transitioning TL to DCPS following DCEIP's termination of services on TL's third birthday. DCPS representatives attended the transition meeting. DCPS learned about TL's disabilities and his need for continuation of services during that meeting.

35. After the November 2005 meeting, TL's parents attempted on numerous occasions to contact the CARE Center of DCPS to ensure that TL would receive special education services once DCEIP terminated those services on TL's third birthday.

36. DCEIP terminated TL's services in April 2006. DCPS did not transition TL by the time DCEIP terminated him.

37. In April 2006, the CARE Center held an initial meeting with TL's parents in which TL's parents requested an evaluation, an eligibility determination, and an appropriate educational placement for TL.

38. On July 27, 2006, and more than eight months after TL's transition meeting, DCPS found TL eligible for special education services. DCPS wrote an IEP for TL but offered a program that is overly restrictive. TL and his parents are still waiting for an appropriate IEP and educational

placement.

JB

39. JB is a six-year-old boy who was born in 1999. He resides with his mother, Leah Bland, and other family members in Washington, D.C. He sues by his mother and next friend, Leah Bland.

40. JB was diagnosed with autism in January 2004 and has a disability that would make him eligible for special education and related services.

41. Defendants have known since at least March 2004 that JB has a qualifying disability.

42. Nevertheless, defendants failed to identify, locate and evaluate him in a timely and adequate manner and failed to offer him any special education services during the 2004-2005 school year.

43. From 2002 to 2004, Ms. Bland tried to place JB in several preschool programs in the District of Columbia. JB exhibited behavioral problems almost immediately. He threw frequent tantrums and scratched and hit himself. He began drooling and refused to eat. Ms. Bland was forced to withdraw him from the preschools as a result of his behavioral problems.

44. From 2002 to 2004, when Ms. Bland was attempting to place him in preschool, she was unaware that special education and related services were available from DCPS. Defendants failed to inform or notify her or the private preschools that JB attended of the availability of special education and related services. Ms. Bland eventually learned through a private educational facility that DCPS could provide special education and related services to preschool children.

45. In March 2004, after learning that DCPS could provide services to preschool children and after JB was diagnosed with autism by a psychiatrist, Ms. Bland registered him at Ann Beers Elementary School, which is JB's neighborhood school. She requested special education services for

JB.

46. In the summer of 2004, DCPS conducted a speech evaluation of JB. DCPS failed to perform other critical evaluations to assess JB's behavioral problems, even though Ms. Bland had requested these evaluations and had signed consent forms enabling DCPS to obtain information from JB's psychiatrist and from his former preschools.

47. In November 2004, DCPS told Ms. Bland that it would conduct a psycho-educational evaluation. DCPS did not conduct the evaluation.

48. In December 2004, frustrated by DCPS's failure to schedule or perform a psycho-educational evaluation, JB's family arranged for a private psychiatric evaluation at the Center for Autism Spectrum Disorders of Children's National Medical Center. The evaluation made extensive recommendations for intervention, including educational intervention.

49. In March 2005, DCPS performed an occupational therapy evaluation for JB.

50. In June 2005, 15 months after JB's mother requested special education for JB, defendants convened a meeting with JB's family. During the meeting, DCPS representatives concluded that JB should be receiving special education and related services as a child with autism. Later that month, DCPS drafted an IEP. The IEP included a full-time special education program with small classes, two hours of speech language therapy weekly, and three 30-minute sessions of occupational therapy weekly.

51. DCPS did not timely implement JB's IEP or offer an educational placement for the 2004-2005 school year until August 2005, 17 months after JB's mother requested these services. JB attended a private childcare at his mother's expense during this time.

52. In August 2005, DCPS offered JB an educational placement for the 2005-2006 school

year at Hearst Elementary School. JB did not receive occupational therapy services for a period of time while he was at Hearst Elementary School.

53. In May 2006, DCPS offered JB's parents a compensatory education proposal for the 2004-2005 school year; the parties are in discussions regarding this proposal.

FD

54. FD is a three-year-old boy who was born in 2001. He resides with his parents and sisters in Washington, D.C. He sues by his parents and next friends, Monica and Frederick Davy.

55. FD has a disability that qualifies him for services under the IDEA. FD was born prematurely at 29 weeks. He was diagnosed with End Stage Renal Disease, which resulted in a renal transplant on March 31, 2004. As a result of his premature birth, FD suffers from a number of medical conditions, including Prune Belly Syndrome (a lack of muscle tone in the abdominal area), spastic diplegia, and developmental delay. He has also had a vesicostomy and is not toilet trained.

56. FD exhibits significant delays in gross and fine motor skills and visual motor skills. His visual-perceptual skills, problem-solving skills, and communication skills are delayed. FD uses a posterior walker at all times and wears ankle-foot orthoses. He also requires a special chair to support his torso for seated work.

57. DCPS delayed for months in offering special education and related services to FD. When FD was two years and eight months, his mother registered him as a non-attending student at his neighborhood school and sought special education services for him from DCPS.

58. In August 2004, FD was cleared medically to attend a group- or school- based program and began attending the Easter Seals Child Care program. Prior to that time, he had received limited services at home through the Early Intervention Program. DCPS staff, who observed FD while he

was at the Easter Seals Child Care program, advised his mother that the program was not meeting all of his needs and that he needed higher functioning peers.

59. In August 2004, DCPS concluded that FD was eligible for special education. DCPS drafted an IEP that required ten hours of specialized instruction and one hour each of occupational, physical, and speech language therapy on a weekly basis. Many of the necessary accommodations for FD were not integrated into the initial IEP, but were added after the parents engaged counsel and after DCPS agreed to revise the IEP. The revised IEP includes a nursing care plan, the services of a dedicated aide, an adaptive chair, and services in an accessible building to accommodate his walker. Services were to begin on September 1, 2004.

60. In December 2004, frustrated by DCPS's failure to provide the services set forth in the IEP and failure to offer an educational placement, FD's parents requested a due process hearing.

61. In March 2005, the parties entered into a settlement agreement whereby DCPS agreed to provide a placement that included, *inter alia*, a classroom with no more than 15 students, a teacher and an instructional assistant, and a nurse in the building full-time. The settlement expressly excluded coverage of the parents' claims for compensatory education and for violations of the Child Find provisions of the IDEA.

62. FD began receiving services in March 2005, seven months after he was found eligible to receive them. However, at that time, DCPS failed to offer compensatory education appropriate for the months during which time defendants failed to provide FD with appropriate classroom instruction with non-disabled age appropriate peers in an accessible environment. DCPS also failed to provide FD the special chair that he needs to perform seated activities.

63. On March 2, 2006, and because of defendants' continued Child Find and FAPE failures,

the parties again attended a due process hearing. The purpose of the hearing was to resolve DCPS's failure to develop an appropriate IEP, offer an appropriate placement, provide a dedicated aide, and provide an appropriate chair for seated activities. The parties entered into a settlement agreement during the hearing regarding some of these matters.

64. FD's parents are waiting for an appropriate educational placement for FY 2006-2007. In March 2006, DCPS informed FD's parents that it would be changing FD's placement to Takoma Elementary School. Takoma is not a medically appropriate or safe placement for FD. The classroom is physically inaccessible for FD because the classroom is entered using stairs, and would require FD to climb steps, which he is unable to do. Even if a ramp were added, Takoma would not be an appropriate placement. FD has a suppressed immune system due to his kidney transplant. Takoma's open floor plan with no walls between the class rooms would potentially expose FD to every child in the school through airborne transmission. Both the Takoma Elementary School nurse and FD's doctors have advised DCPS of these dangers. For these reasons, FD's parents have objected to Takoma as a placement and believe it to be an inappropriate educational placement. Nevertheless, and despite repeated requests from the parents and parents' counsel, DCPS has yet to offer an appropriate educational placement for the 2006-2007 school year. FD has exhausted his administrative remedies.

TF

65. TF is a six-year-old boy who was born in 1998. He resides with his mother in Washington, D.C. He sues by his mother and next friend, Angelique Moore.

66. In September 2003, TF began kindergarten at the DCPS Garfield Elementary School. TF's kindergarten teacher believed that he needed speech and language therapy. Despite his teacher's

recommendation, defendants failed to refer him for an evaluation.

67. At the end of the 2003-2004 school year, TF's kindergarten teacher recommended that TF repeat kindergarten because of his delays. Defendants again failed to refer him for an evaluation.

68. In August 2004, just days prior to the start of the 2004-2005 school year, TF's mother was notified that, due to her home address, TF and her other children would not be able to return to Garfield that school year, but, instead, would have to attend Stanton Elementary School.

69. At the beginning of the 2004-2005 school year, Ms. Moore visited Stanton Elementary School to discuss TF's speech and language problems. Ms. Moore informed staff at Stanton that TF had speech and language difficulties and that his Garfield Kindergarten teacher had told her that TF should repeat kindergarten. Despite Ms. Moore's efforts, defendants failed to evaluate TF for speech and other education needs during the school year.

70. In September 2004, staff at Stanton initially placed TF in the first grade, despite his kindergarten teacher's recommendation that he repeat kindergarten. TF experienced significant academic and behavioral problems during his first months in the first grade, and was returned to kindergarten by the beginning of the second quarter of the school year.

71. In January 2005, frustrated by DCPS's failure to evaluate TF, his mother arranged for a private speech and language evaluation. The speech language pathologist concluded that TF had severe speech and language deficits and recommended that he receive intensive speech language services.

72. In April 2005, Ms. Moore, through counsel, sent DCPS copies of the evaluation recommending speech and language therapy and requested a full evaluation, including a psycho-educational assessment and an occupational therapy evaluation.

73. In June 2005, a due process hearing was conducted to challenge DCPS's failure to evaluate TF. During the hearing, DCPS agreed to provide TF with four 30-minute sessions of speech language therapy weekly during the summer of 2005. The administrative hearing officer found, *inter alia*, that DCPS had conceded that there had been a Child Find violation and ordered that DCPS evaluate TF on an expedited basis no later than July 8, 2005. DCPS was ordered to provide TF with a schedule for summer speech language services no later than June 24, 2005. DCPS failed to do so until July 19, 2005.

74. On September 19, 2005 (nearly two years after TF's kindergarten teacher first recommended that he be evaluated for special education), defendants found TF to be eligible for special education and related services. DCPS completed an IEP for him, which included 10 hours of specialized instruction and 1 hour of speech language therapy, at his neighborhood school, Stanton Elementary School.

75. On June 8, 2006, TF's mother attended an IEP Review meeting. During the meeting, defendants determined that TF continued to need special education and related services.

76. TF and Ms. Moore have exhausted their administrative remedies.

Defendants

77. Defendant District of Columbia (hereafter "District") is a municipal corporation subject to 42 U.S.C. 1983. The District is a "state" within the meaning of the IDEA and the Rehabilitation Act. The District receives federal funds under IDEA and must therefore comply with the requirements of the IDEA and Section 504 of the Rehabilitation Act. Through its designated agency, DCPS, the District is required to make available a FAPE for all children with disabilities residing in the District who are ages 3 to 22. 5 D.C.M.R. 3002.1(a). It is also required to ensure that

procedures are implemented to identify, locate, and evaluate all children with disabilities residing in the District. 5 D.C.M.R. 3002.1(d).

78. Defendant Clifford B. Janey is the Superintendent of the District of Columbia Public Schools and is sued in his official capacity. Pursuant to D.C. Code 38-105, the Superintendent is charged with directing and supervising all matters pertaining to instruction in all public schools. Dr. Janey serves as the chief executive of DCPS to the extent that it serves as the State Education Agency (SEA) and the Local Education Agency (LEA) for the District of Columbia.

CLASS ACTION ALLEGATIONS

79. Named plaintiffs bring this action on behalf of themselves and all others similarly situated, namely, the following four subclasses:

SUBCLASS 1: All children, who, when they were or will be between the ages of three and five, were or will be disabled, as defined by the IDEA, lived or will live in, or were or will be wards of, the District of Columbia, and were not or will not be identified and/or located for the purposes of offering special education and related services;

SUBCLASS 2: All children, who, when they were or will be between the ages of three and five, were or will be disabled, as defined by the IDEA, lived or will live in, or were or will be wards of, the District of Columbia, and did not or will not receive a timely initial evaluation for the purposes of offering special education and related services;

SUBCLASS 3: All children, who, when they were or will be between the ages of three and five, were or will be disabled, as defined by the IDEA, lived or will live in, or were or will be wards of, the District of Columbia, and did not or will not receive a timely determination of eligibility for special education and related services;

SUBCLASS 4: All children with disabilities, as defined by the IDEA, who lived in or will live in, or are or will be wards of, the District of Columbia, and who participated or will participate in early intervention programs under Part C of IDEA, and who participated or will participate in preschool programs under Part B, and who did not or will not have a “smooth and effective” transition from Part C to Part B by the child’s third birthday.

80. The requirements of Rules 23(a)(1)-(4), (b)(2), and (b)(3) of the Federal Rules of Civil

Procedure are met as to each subclass because:

(a) Each subclass is so numerous that joinder of all members of the subclass is impracticable. On information and belief, hundreds of children with disabilities in the District of Columbia, aged three through five, inclusive, have not been or will not be timely identified for the purposes of offering special education and related services, have not or will not receive a timely initial evaluation for the purposes of offering special education and related services, have not or will not receive a timely determination of their eligibility for special education and related services, and have not or will not receive a smooth and effective transition from the Part C early intervention program to Part B preschool special education.

(b) There are questions of law and fact common to each subclass, namely whether DCPS's policies, procedures, and practices related to identification, timely evaluation, timely eligibility determination, and smooth and effective transition from Part C to Part B violate the IDEA, Section 504 of the Rehabilitation Act, implementing regulations, and/or District of Columbia law.

(c) The claims of the named plaintiffs are typical of the claims of the subclass that they represent in that each of the named plaintiffs has a disability that would make him or her eligible for special education and related services, but was not identified and/or located for the purposes of offering special education and related services, when three to five years old; did not receive a timely initial evaluation for the purposes of offering special education and related services, when three to five years old; did not receive a timely determination of his or her eligibility for special education and related services, when three to five years old; or did not receive a smooth and effective transition from the Part C early intervention program to Part B special education.

(d) The named plaintiffs will fairly and adequately represent and protect the interests of each subclass that they represent. They have no interests that are antagonistic to the subclass and seek relief that will benefit all members of the subclass. They are represented by counsel with significant experience with this type of litigation; and

(e) The defendants have acted and continue to act on grounds generally applicable to each subclass, thereby making appropriate final injunctive relief or corresponding declaratory relief with respect to each subclass as a whole.

(f) The common facts and questions of law shared by each subclass predominate over any questions affecting only individual members, and a class action is superior to other available methods for fairly and efficiently adjudicating the controversy.

STATUTORY BACKGROUND

81. In 1975, Congress enacted the Education for All Handicapped Children Act (“EHA”), now known as the Individuals with Disabilities Education Act (“IDEA”), “to ensure that the rights of children with disabilities * * * are protected.” 20 U.S.C. 1400(d)(1)(B).

82. The IDEA is a federal grant program administered by the U.S. Department of Education (“DOE”). 20 U.S.C. 1400, *et seq.* States and other jurisdictions, including the District of Columbia, that receive DOE funds must comply with the mandates contained in the IDEA and its implementing regulations.

83. The IDEA’s primary mandate is the guarantee that all children with disabilities have available to them a “free appropriate public education [“FAPE”] that emphasizes special education and related services designed to met their unique needs * * * .” 20 U.S.C. 1400 (d)(1)(A). This is known as the duty to provide “FAPE.”

84. In enacting the FAPE requirement, Congress originally only provided for children with disabilities who were between the ages of 5 and 21. However, in 1986, Congress amended the IDEA’s FAPE protection to extend to children who were between three and five years of age. Pub. L. 99-457, Title II, Sec. 203(a). Accordingly, the IDEA declares that a “free appropriate public education,” must be made available to “all children with disabilities residing in the State between the ages of 3 and 21 * * * .” 20 U.S.C. 1412(a)(1)(A).

85. In order to ensure that all children ages three to twenty-one receive FAPE, one of the specific mandates of the IDEA is that “[A]ll children with disabilities residing in the State, * * * regardless of the severity of their disabilities, and who are in need of special education and related services, are identified, located, and evaluated * * * .” 20 U.S.C. 1412(a)(3)(A); 34 C.F.R.

300.125(a)(1). This is known as the “Child Find” duty. This duty extends to children ages three to five years old.

86. The specific requirements of the Child Find and FAPE duties and the process defendants must follow when identifying, locating, evaluating, and offering special education services to children with disabilities are clearly set forth in the IDEA, the Rehabilitation Act, the implementing regulations of the U.S. Department of Education, and District of Columbia law.

87. For example, defendants are required to put “in effect policies and procedures” to ensure that all children with disabilities who are in need of special education and related services are identified, located, and evaluated. 20 U.S.C. 1412(a)(3)(A); 34 C.F.R. 300.125(a); 5 D.C.M.R. 3002.1(d), 3002.3(a). Defendants must ensure that a “practical method is developed and implemented to determine which children with disabilities are currently receiving needed special education and related services.” 20 U.S.C. 1412(a)(3)(A); 34 C.F.R. 300.125(a).

88. Defendants are required to identify and notify children with disabilities of the availability of special education and related services. Defendants have a duty to “identify and locate every qualified handicapped” child residing in the jurisdiction and to “[t]ake appropriate steps to notify handicapped persons and their parents or guardians of [this] duty * * *.” 34 C.F.R. 104.32. *See* 29 U.S.C. 794(a); 34 C.F.R. 104.33.

89. Defendants are allowed 120 days from the date of a referral of a child to identify children with suspected disabilities, evaluate them, determine whether they are eligible for special education and related services, offer them a written educational program (known as an Individualized Education Program (“IEP”)) and offer them an appropriate educational placement. D.C. Code 38-2501.

90. Defendants are required to evaluate children suspected of disabilities. 20 U.S.C. 1414(a) -

(c). Defendants must conduct comprehensive “initial evaluations” to “determine whether a child is a child with a disability” and “to determine the educational needs of such child.” 20 U.S.C. 1414(a)(1). *See* 34 C.F.R. 300.320(a), 34 C.F.R.300.532; 5 D.C.M.R. 3005.1. Defendants’ evaluations must conform to the evaluation procedures set forth in the IDEA and implementing regulations. *See* 34 C.F.R. 300.530-300.536, 300.540-300.543. For example, defendants must “assess[] in all areas related to the suspected disability, including * * * health, vision, hearing, social and emotional status, general intelligence, academic performance, communicative status, and motor abilities.” 34 C.F.R. 300.532 (g). *See* 20 U.S.C. 1414(b)(3). Defendants must conduct evaluations that are “sufficiently comprehensive to identify all of the child's special education and related services needs * * *.” 34 C.F.R. 300.532(h). *See* 20 U.S.C. 1414(b); 300.320; 5 D.C.M.R 3005.1, 3005.3-3005.10.

91. After conducting evaluations, defendants are required to determine eligibility for services. Defendants must convene a team that includes parents, teachers, and other qualified individuals to review the results of the evaluations, along with other information, in order to determine whether a child is disabled and needs special education and related services. 20 U.S.C. 1414(b)(4); 20 U.S.C. 1414(d)(1)(B); 34 C.F.R. 300.534, 300.535; 5 D.C.M.R. 3003.1, 3003.3, 3006.1 - 3006.7.

92. After determining eligibility, defendants are required to offer special education and related services. Defendants must participate with parents, teachers, and other qualified professionals to draft a comprehensive instruction plan, the IEP, which must meet the child’s unique needs and provide him or her with a free appropriate public education. 20 U.S.C. 1414(d); 34 C.F.R. 300.340 - 300.350, 300.535(b); 5 D.C.M.R. 3007.1- 3007.8. The IEP must be developed within 30 days of a determination that a child needs special education services. 34 C.F.R. 300.343(b)(2); 5 D.C.M.R

3007.1. The IEP must include annual goals to serve as the roadmap for the child's educational development. 20 U.S.C. 1414(d)(1)(A); 34 C.F.R. 300.347; 5 D.C.M.R. 3009.1. The IEP must also include the specific special education and related services to be provided to the child. *Id.* Defendants must implement an IEP "as soon as possible," 34 C.F.R. 300.342(b)(ii), 5 D.C.M.R. 3010.2, and must propose an appropriate placement for the child that can provide the special education and related services listed in the IEP. *See* 34 C.F.R. 300.350(a); 5 D.C.M.R. 3013.1.

93. Defendants' Child Find and FAPE obligations extend to children who are cared for or enrolled in any potential setting, including children enrolled in public, private, and charter schools and daycare facilities. *See* 20 U.S.C. 1412(a)(10)(A)(ii); 34 C.F.R. 300.125, 300.451. These obligations extend to children enrolled in kindergarten, pre-kindergarten, and Head Start programs at DCPS. The child find obligations also extend to "highly mobile children * * * such as migrant and homeless children * * *." 34 C.F.R. 300.125(a)(2)(i).

94. In addition, and in order to ensure that defendants are able to provide FAPE and comply with Child Find for all disabled children by the time they turn three years old, Congress added a program to serve children from birth to age three with disabilities, known as IDEA Part C. *See* 20 U.S.C. 1431-1455. Part C requires defendants to provide disabled children from birth to age three with "appropriate early intervention services" and to develop an Individual Family Service Plan ("IFSP"), which is similar to an IEP. 20 U.S.C. 1435(a).

95. Defendants' Child Find and FAPE duties extend to ensuring that infants and toddlers who are "participating in early intervention programs [under Part C of the IDEA], and who will participate in those preschool programs [once they turn three years old under Part B of the IDEA], * * * experience a smooth and effective transition to [Part B] in a manner consistent with" the IDEA by

their third birthday. 20 U.S.C. 1412(a)(9). In order to ensure that all three year olds receive FAPE, the IDEA requires that defendants ensure that “by the third birthday of such a child [who is transitioning from Part C to Part B], an [IEP or IFSP] * * * has been developed and is being implemented for the child.” 20 U.S.C. 1412(a)(9).

96. The IDEA further requires that defendants ensure that preschool children “remain in the then-current educational placement,” including the IFSP, if an IEP has not been developed by a child’s third birthday, or if there is a dispute concerning an IEP during the transition process. 20 U.S.C. 1415(j). This is known as the “stay-put” requirement.

FACTS

97. As described below, defendants are failing to comply with their Child Find and FAPE obligations to identify, locate, evaluate, and offer special education and related services to all preschool children with disabilities in the District of Columbia, including failing to ensure a “smooth and effective” transition from Part C to Part B for disabled children by their third birthday. Defendants’ conduct discriminates against plaintiffs and demonstrates gross misjudgment because it departs from Child Find and FAPE standards that are accepted and followed by other jurisdictions and educational professionals. Defendants’ failures are widespread and systemic and can be rectified only with injunctive and declaratory relief from this Court.

98. Defendants have not put into “effect policies and procedures” to ensure that all preschool children who may need special education services are identified, located or evaluated. Defendants have also failed to “develop[] and implement[]” a “practical method” to determine the children who are in need of special education and related services. For example, in contrast to other jurisdictions, defendants do not have a Child Find Program and have not established an Office of Child Find that

identifies, locates and evaluates children for special education and related services. Defendants have no budget for Child Find activities. Defendants have failed to comply with the time lines in the IDEA and local laws that require defendants to identify and evaluate preschool children with suspected disabilities, determine their eligibility for services, develop their IEP's, and place them in an appropriate educational program within a 120 days after a request is made.

99. Defendants have failed to take basic steps to notify and locate disabled children in the District who are in need of services and who are not receiving them. For example, defendants have failed to notify parents and other members of the public who work with preschool children that special education and related services are available through DCPS at no cost to the family. In contrast to many other jurisdictions in the country, defendants have failed to conduct adequate public awareness activities to inform the public, including parents, health care providers, child care centers, advocates, community centers, and other members of the general public who work with preschool children who may need special education services. Defendants have failed to inform, train and work with preschools, child care providers, and other groups who care for a majority of the District's preschool children about the availability of special education and related services through DCPS and about how parents and guardians may access these services. Defendants have failed to develop and distribute sufficient materials to the general public about the availability of special education and related services for preschool children. As a result, hundreds of preschool children with disabilities who need special education and related services do not know of the availability of services and are not identified, located, evaluated or offered these services.

100. Defendants do not have an adequate method of identifying or locating children with suspected disabilities. Defendants do not have an adequate method of screening or tracking children

with suspected disabilities. For example, defendants' data tracking systems, including ENCORE, are deficient and incapable of tracking adequately disabled children to ensure defendants' compliance with FAPE and Child Find. Defendants also do not have an adequate intake and referral process that identifies and locates children who want special education and related services. For example, defendants refuse to accept referrals from day care providers, doctors, neighbors, social workers, advocates, or other persons with knowledge about children who may qualify. They have a policy of accepting referrals only from parents or DCPS employees. Even when parents make referrals or requests for services on behalf of their children, defendants have delayed action for many months or failed to act at all. As a result, hundreds of preschool children with disabilities are not identified as disabled and are deprived of access to the special education and related services that they need.

101. Defendants are failing to evaluate preschool children for special education and related services or are performing these evaluations after months of delay, in violation of the IDEA's evaluation procedures, or not at all, despite parents' repeated requests for these evaluations. DCPS's own experts and staff have stated that DCPS does not have staff to conduct these evaluations in a manner required by the IDEA.

102. Defendants also fail to assess children in all areas related to suspected disabilities. Defendants do not routinely conduct medical or psychiatric evaluations when they are indicated and do not have the staff to perform these evaluations. Defendants often fail to conduct occupational or assistive technology evaluations, even when the need is apparent. DCPS's own experts and staff have stated that DCPS does not have the staff to conduct adequate assessments. As a result, many preschool children with disabilities are not properly evaluated and consequently are denied access to needed special education and related services.

103. Defendants have failed to convene timely “IEP meetings” to determine eligibility for special education services and to develop IEP’s, which specify what services will be provided. Defendants delay IEP meetings for months or convene them without the required participants, including teachers, parents, and other qualified professionals. As a result, many preschool children experience substantial delays before they are found eligible and receive services.

104. Defendants have failed to offer plaintiffs appropriate placements or have offered placements only after many months of delay. For example, defendants have proposed programs that do not have the staff, resources or capacity to implement IEP’s for preschool children with disabilities. As a result, many preschool children who have been found eligible and in need of services do not receive special education and related services.

105. Defendants have failed to ensure a “smooth and effective transition” for disabled infants and toddlers transitioning from Part C of the IDEA to Part B of the IDEA by their third birthday. As a result, scores of preschool children are terminated from special education and related services once they turn three years old or else experience a significant interruption in critical services. Many children who received Part C services and whose services were terminated at their third birthday receive no services at all from DCPS until after they reach mandatory school age at five years of age.

106. Defendants have conceded the central structural deficiencies and inadequacies underlying the numerous Child Find failures articulated above (paras 97-105). For example, the Executive Director of Special Education Reform for the DCPS, Mary Lee Phelps, stated this month in a sworn statement filed by defendants on July 14, 2006, in connection with the fairness hearing on remedy in *Blackman/Jones v. D.C.*, D.D.C., Civil Action No. 97-1629/97-2402 (PLF), that defendants have failed to put in place adequate staff or to train current staff to carry out activities

related to Child Find. In particular, DCPS has a 50% vacancy rate for staff in several key areas and does not have sufficient staff to conduct assessments, evaluations, determine eligibility, hold IEP's, and offer placements in accordance with the IDEA's requirements. In addition, DCPS's own statistical expert, Rebecca Klemm, submitted an affidavit in connection with the same fairness hearing stating that DCPS's tracking and computer system, called ENCORE, is deficient and fails to track and ensure timely compliance with IDEA mandates, including the completion of evaluations and IEP and multi-disciplinary team ("MDT") meetings. Dr. Klemm reported that such evaluations and meetings were consistently delayed by many months. Ms. Phelps also notified the Court that the deficiencies in the computer systems and tracking systems made coordination with other District agencies, such as the Child and Family Services Administration ("CFSA"), impossible.

107. Defendants' failures have resulted in a Child Find system that departs grossly from accepted standards in other jurisdictions and that is grossly inadequate when compared to those programs in comparable parts of the country. According to statistics maintained by the Department of Education, Special Education Office, the District of Columbia is consistently ranked last among 50 states in the provision of special education services to preschool children, ages three through five. In 2003, only 1.7% or 301 preschool children were provided special education services in 2003, less than one third of the national average of 5.56% and far less than the second worst state, Texas, which provides services to 3.96% of three to five year olds. In 2004, defendants were again ranked last among 50 states in special education services to preschool children. Only 579, or 3.16%, of preschool children received some type of special education or related services. This figure is again well-behind the national average of 5.87%.

108. It is critical that children with disabilities be identified in their preschool years or earlier

so that their disabilities can be treated and managed to ensure that they have educational opportunities in elementary and secondary school. Defendants' actions have harmed hundreds of current and former preschool children in the District of Columbia by adversely affecting their educational opportunities, learning, and well-being.

109. Defendants' actions amount to a policy, pattern, practice or custom that violates federal law and shows deliberate indifference to plaintiffs' federal rights under the IDEA, Rehabilitation Act, and Due Process Clause of the Fifth Amendment.

CLAIMS

FIRST CLAIM

INDIVIDUALS WITH DISABILITIES IN EDUCATION ACT

110. The IDEA and its implementing regulations require that "[a] free appropriate public education is available to all children with disabilities residing in the State between the ages of 3 and 21, inclusive * * *." 20 U.S.C. 1412(a)(1)(A). *See* 20 U.S.C. 1400(d)(1)(A); 34 C.F.R. 300.121.

111. The IDEA and implementing regulations require states to have "in effect policies and procedures" to ensure that "all children with disabilities residing in the State * * * regardless of the severity of their disabilities, and who are in need of special education and related services, are identified, located, and evaluated and [that] a practical method is developed and implemented to determine which children with disabilities are currently receiving needed special education and related services." 20 U.S.C. 1412(a)(3)(A). *See* 34 C.F.R. 300.125.

112. The IDEA requires that defendants ensure a "smooth and effective transition" from Part C to Part B services for disabled infants and toddlers by their third birthday. 20 U.S.C. 1412(a)(9). Defendants must ensure that "by the third birthday * * * an individualized education program, or *

* * an individualized family service plan has been developed and is being implemented for the child.”
Ibid. 34 C.F.R. 300.121; 34 C.F.R. 300.132. If defendants cannot ensure that an IEP is in place for qualifying children by their third birthday, or if there is a dispute concerning the IEP, defendants must ensure that these children are permitted to remain in their “current educational placement,” including an IFSP, at no cost to the parent if they chose. 20 U.S.C. 1415(j).

113. As set forth in paragraphs 1- 109 above, defendants have a policy, pattern, and practice of failing to identify, locate, evaluate or offer special education and related services and of failing to ensure a smooth and effective transition for disabled preschool children before their third birthday. Defendants failures are numerous and systemic.

114. Defendants’ actions violate 20 U.S.C. 1412(a)(1)(A), 20 U.S.C. 1412(a)(3)(A), 20 U.S.C. 1412(a)(9), 20 U.S.C. 1415(j), 20 U.S.C. 1400 (d)(1)(A), and the implementing regulations.

SECOND CLAIM

REHABILITATION ACT

115. Section 504 of the Rehabilitation Act, 29 U.S.C. 794(a), and its implementing regulations, forbid defendants from discriminating against or excluding an otherwise qualified child from participation in the federally funded program or activity because of the child’s disability. Defendants are liable under 29 U.S.C. 794(a) for IDEA violations where they exercise gross misjudgment or depart grossly from acceptable standards among educational professionals.

116. The regulations relating to Section 504 of the Rehabilitation Act provide that “a recipient that operates a public elementary or secondary education program or activity shall provide a free appropriate public education to each qualified handicapped” child in its jurisdiction. 34 C.F.R. 104.33.

117. The regulations also provide that “[a] recipient that operates a public elementary or secondary education program or activity shall annually: (a) Undertake to identify and locate every qualified handicapped” child residing in the jurisdiction; and “(b) [t]ake appropriate steps to notify handicapped persons and their parents or guardians of [this] duty * * *.” 34 C.F.R. 104.32.

118. Plaintiffs are qualifying individuals under the Rehabilitation Act. Defendants have failed to offer a free appropriate public education to plaintiffs, which they have offered to non-disabled four and five year olds through DCPS pre-kindergarten, Head Start, and kindergarten programs. Defendants have failed to identify, locate, evaluate, or offer special education and related services to plaintiffs. Defendants’ failures are numerous and systemic and discriminate against plaintiffs. Defendants’ actions are taken with gross misjudgment and depart grossly from accepted Child Find and IDEA standards and practices when compared to other jurisdictions.

119. Defendants’ actions violate Section 504 of the Rehabilitation Act and implementing regulations.

THIRD CLAIM

DUE PROCESS

120. The Due Process Clause of the Fifth Amendment bars defendants from depriving plaintiffs of a protected liberty interest without due process of the law.

121. Plaintiffs have a protected liberty interest in a free appropriate public education guaranteed by the IDEA, implementing regulations, and District of Columbia law.

122. Defendants have deprived plaintiffs of a free appropriate public education by failing to comply in an adequate and timely manner with the IDEA, implementing regulations, the D.C. Code, and District of Columbia regulations. Defendants’ failures are numerous and systemic.

123. Defendants' actions violate the Due Process Clause of the Fifth Amendment.

FOURTH CLAIM

D.C. CODE

124. D.C. Code 38-2501 requires that defendants "shall assess or evaluate a student, who may have a disability and who may require special education services, within 120 days from the date that the student was referred for an evaluation or assessment."

125. Defendants violate D.C. Code 38-2501 because they fail to evaluate preschool children who may have a disability within 120 days of referral for an assessment.

FIFTH CLAIM

DISTRICT OF COLUMBIA REGULATIONS

126. District of Columbia regulations require that defendants make available "a free appropriate public education (FAPE) * * * to each child with a disability, ages three to twenty-two," who is a resident or ward of the District of Columbia. 5 D.C.M.R. 3002.1(a).

127. District of Columbia regulations require that defendants "ensure that procedures are implemented to identify, locate and evaluate all children with disabilities" who reside in the District of Columbia and who are in need of special education and related services. 5 D.C.M.R. 3002.1(d). *See* 5 D.C.M.R. 3002.3(a).

128. District of Columbia regulations require that defendants ensure that "beginning at age three, FAPE is available to any child with a disability who needs special education and related services, including * * * highly mobile children, such as migrant or homeless children * * *." 5 D.C.M.R.3002.1(e).

129. Defendants have failed to identify, locate, evaluate and offer special education and

related services and a free appropriate public education to plaintiffs. Defendants' failures are numerous and systemic.

130. Defendants' actions violate 5 D.C.M.R.3002.1(a), (d), (e), 3002.3(a).

RELIEF

Plaintiffs, on behalf of themselves and all other persons similarly situated, request that this Court grant the following relief:

(1) hybrid certification of this action, as a class action, pursuant to Rule 23(b)(2) and Rule 23(b)(3) of the Federal Rules of Civil Procedure, of the following four subclasses:

SUBCLASS 1: All children, who, when they were or will be between the ages of three and five, were or will be disabled, as defined by the IDEA, lived or will live in, or were or will be wards of, the District of Columbia, and were not or will not be identified and/or located for the purposes of offering special education and related services;

SUBCLASS 2: All children, who, when they were or will be between the ages of three and five, were or will be disabled, as defined by the IDEA, lived or will live in, or were or will be wards of, the District of Columbia, and did not or will not receive a timely initial evaluation for the purposes of offering special education and related services;

SUBCLASS 3: All children, who, when they were or will be between the ages of three and five, were or will be disabled, as defined by the IDEA, lived or will live in, or were or will be wards of, the District of Columbia, and did not or will not receive a timely determination of eligibility for special education and related services;

SUBCLASS 4: All children with disabilities, as defined by the IDEA, who lived in or will live in, or are or will be wards of, the District of Columbia, and who participated or will participate in early intervention programs under Part C of IDEA, and who participated or will participate in preschool programs under Part B, and who did not or will not have a "smooth and effective" transition from Part C to Part B by the child's third birthday.

(2) A declaratory judgment that defendants have violated the following federal statutes and regulations:

(a) The IDEA, 20 U.S.C. 1400, *et seq*, namely 20 U.S.C. 1412(a)(3)(A), 20 U.S.C. 1412(a)(9), 20 U.S.C. 1400(d)(1)(A), 20 U.S.C. 1412(a)(1)(A) and implementing regulations by failing to identify, locate, evaluate, or offer a free appropriate public education to plaintiffs in accordance with the IDEA and implementing regulations and by failing to ensure a smooth and effective transition from Part C to Part B;

(b) Section 504 of the Rehabilitation Act, 29 U.S.C. 794(a), and the implementing regulations, 34 C.F.R.104.32 and 34 C.F.R.104.33, by exercising gross misjudgment in failing to identify, locate, evaluate and offer plaintiffs a free appropriate public education;

(c) The Due Process Clause of the Fifth Amendment by depriving plaintiffs of their rights and interests under the IDEA, implementing regulations, and District of Columbia law with respect to the identification, location, evaluation and offer of a free appropriate public education;

(d) D.C. Code 38-2501 by failing to evaluate or assess plaintiffs within 120 days of a referral; and

(e) 5 D.C.M.R. 3002.1(a), (d), (e), and 3002.3(a) by failing to identify, locate, evaluate or offer a free appropriate public education to plaintiffs.

(3) A preliminary and permanent injunction ordering defendants to:

(a) develop and implement adequate and effective policies and procedures and a practical method of identifying, locating and evaluating plaintiffs for special education and related services;

(b) notify and inform parents and members of the community that special education and related services are available to plaintiffs at no cost to the parent or family;

(c) develop an adequate and effective intake and referral process that accepts referrals from any individual for a child who may need special education and related services;

(d) conduct adequate and timely initial evaluations;

(e) determine eligibility and develop and implement IEP's in an adequate and timely manner; and

(f) offer adequate and timely education placements to implement IEP's

(g) ensure a smooth and effective transition from Part C to Part B services for plaintiffs by their third birthdays.

(4) An order enjoining defendants to maintain those services mandated by the IFSP at no cost to the parent as the current educational placement for those children in Part C programs who are eligible for Part B and who do not have an IEP in place by their third birthday.

(5) An order enjoining defendants to take appropriate affirmative actions to ensure that the violations of federal and District of Columbia law complained of above do not continue to be engaged in by defendants, their agents, successors, employees, subordinates, attorneys and those acting at their direction;

(6) An order enjoining defendants to provide compensatory education to plaintiffs whom defendants failed to identify, locate, evaluate or offer special education and related services when they were between three and five years old, inclusive;

(7) An order requiring defendants to reimburse plaintiffs for the funds expended to obtain evaluations, special education and related services as a result of defendants' violations of

federal law;

(8) An order appointing a Special Master whose duties shall include, but not be limited to, monitoring and reporting to the Court regarding:

(a) defendants' compliance with the Court's Order;

(b) remedies necessary to bring about full compliance with the Court's order.

(9) An award of reasonable attorneys' fees and costs; and

(10) Such other relief as may be deemed proper by the Court.

Respectfully submitted,

/s/

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

_____)	
DL, et al.,)	
)	
Plaintiffs,)	
)	
v.)	Civil Case No. 05-1437 (RCL)
)	
DISTRICT OF COLUMBIA, et al.,)	
)	
Defendants.)	
_____)	

ORDER

Upon consideration of arguments, testimony, and other evidence presented at the November 12-16, 2015 trial of this matter and the entire record in this case, and for the reasons stated in the accompanying Memorandum Opinion filed this date, the Court hereby extends the holding of its June 10, 2015 Memorandum Opinion, *DL v. District of Columbia*, 109 F. Supp. 3d 12 (D.D.C. 2015), to the period April 7, 2011 to November 12, 2015 (the first day of trial) and declares that:

1. with respect to Subclass 1, defendants failed to ensure that preschool-age children with disabilities in the District are identified, located, and evaluated for the purposes of offering special education and related services, in violation of 20 U.S.C. § 1412(a)(3)(A) and 5 D.C. Mun. Regs. §§ 3002.1(d), 3002.3(a). In doing so, defendants failed to ensure that a FAPE is available to preschool-age children with disabilities in the District in violation of 20 U.S.C. § 1412(a)(1)(A) and 5 D.C. Mun. Regs. §§ 3001.1, 3002.1(a);

2. with respect to Subclass 3, defendants failed to ensure that preschool-age children with disabilities in the District receive an eligibility determination within 120 days of referral in violation of 20 U.S.C. § 1414(a)(1)(C), 20 U.S.C. § 1414(b)(4), 34 C.F.R. § 300.306(a), and D.C. Code § 38-2561.2(a);
3. with respect to Subclass 4, defendants failed to have in effect policies and procedures to ensure that children receive a smooth and effective transition from Part C to Part B services in violation of 20 U.S.C. § 1412(a)(9), 34 C.F.R. § 300.124, and 34 C.F.R. § 300.101(b).

The Court further declares that defendants violated section 504 of the Rehabilitation Act until March 22, 2010 as to each of the four individual subclasses.¹ The Court finds that the District demonstrated bad faith and gross misjudgment with regard to its Child Find and FAPE obligations; its obligation to provide timely initial evaluations for special education and related services; its obligation to provide timely eligibility determinations for special education and related services; and its obligation to provide smooth and effective transitions from Part C to Part B services.

In addition to the declaratory relief stated above, the Court permanently enjoins defendants from further violations of the IDEA's requirements to identify, locate, and evaluate preschool-age children; perform a timely eligibility determination with 120 days of referral; and ensure children receive a smooth and effective transition from Part C to Part B. The Court directs the following corrective actions:

¹ Although the Court granted defendants' motion [417] for summary judgments on all of the second plaintiff subclass's claims under the IDEA and D.C. law after April 6, 2011 [445], the second subclass's claims under the Rehabilitation Act for the period prior to March 22, 2010 were litigated at trial. As discussed in this order, the second subclass prevailed on these claims.

A. NUMERICAL REQUIREMENTS

a. Subclass 1

1. The District shall ensure that at least 8.5% of children between the ages of three and five years old, inclusive (hereafter, “preschool children”), who reside in or are wards of the District, are enrolled in special education and related services under Part B or extended Part C services.

- a. Until 8.5% is reached, the District shall increase the percentage of preschool children in the District enrolled in Part B or extended Part C services by 0.5% in the first full year, starting on the first of the next month after the date of this Order, and an additional 0.5% in each subsequent year.
- b. A child shall be considered “enrolled” on the date that he or she began receiving all of the special education and related services identified in his or her IEP or, if receiving extended Part C services, all of the services identified in his or her IFSP, including the required educational component. The District shall record and track when children first receive each service (including special education and related services) required pursuant to an IEP or extended IFSP.
- c. The District’s enrollment percentage shall be calculated by dividing the number of preschool children enrolled by the number of preschool children in the District, as reported in the most recent annual census estimate prepared by the U.S. Census Bureau’s Population Estimates Program, except in the years for which the decennial census results are issued, in which case the enrollment percentage should be calculated by dividing the number of preschool children enrolled by the decennial census results.

b. Subclass 3

2. The District shall ensure that at least 95% of all preschool children referred for Part B services receive a timely eligibility determination.

- a. Until 95% is reached, the District shall increase the percentage of preschool children referred for Part B services who receive a timely eligibility determination by 10% in the first full year, starting on the first of the next month after the date of this Order, and an additional 5% in each subsequent year.
- b. An eligibility determination shall be considered timely if it is completed within the period then-prescribed by federal and local law. According to District law that is currently applicable, the District has 120 days from the date of referral to make an eligibility determination.
- c. “Date of referral” is defined as the date on which the District receives a written or oral request for assessment of a preschool child. That referral may be made by a parent or a non-parent such as a pediatrician or an LEA employee.
- d. The District shall revise its parental delay policy so that it uses common sense and fairness to determine when any delay should be attributed to the LEA and when any delay should be attributed to the parent, consistent with 34 C.F.R. § 300.301(d)(1). The revised rules shall account for both delays by the LEA in attempting to contact the parent and in parental responsiveness, all of which should be documented.

c. Subclass 4

3. The District shall ensure that at least 95% of all Part C graduates that are found eligible for Part B receive a smooth and effective transition by their third birthdays.

- a. Until 95% is reached, the District shall increase the percentage of smooth and effective transitions by 10% in the first full year, starting on the first of the month following the date of this Order, and an additional 5% in each subsequent year.
- b. A transition shall be considered “smooth and effective” if (1) the transition begins no less than 90 days prior to the child’s third birthday; (2) the child is provided with an IEP listing the services that are to be provided and both the type of placement and a specific location for services by the child’s third birthday; (3) there is no disruption in services between Part C and Part B services (that is, all special education and related services in the child’s IEP must commence by the child’s third birthday); and (4) Part B personnel are involved in the transition process.
- c. The District may report that there was no disruption in services as long as (1) all of the child’s special education services begin on the child’s third birthday or, if that is a weekend or holiday, on the first school day after the child’s third birthday (which, in the case of a child whose birthday falls during the summer and qualifies for Extended School Year (“ESY”) services, will be ESY services), and (2) all related services should begin within 14 days of the child’s third birthday (unless that period is within the summer and the child does not qualify for related services as part of his or her ESY services, in which case within 14 days of the first day of school after the summer). The District shall record and track when children first receive each service (including special education and related services) required pursuant to an IEP.

- d. The District shall revise its parental delay policy as described in paragraphs 157-161, 270, 302 of the accompanying Memorandum Opinion & Findings of Fact and Conclusions of Law.

B. PROGRAMMATIC REQUIREMENTS

4. The District shall maintain and regularly update a list of primary referral sources, including physicians, hospitals, and other health providers; day care centers, child care centers, and early childhood programs; District departments and agencies; community and civic organizations; and advocacy organizations. The District shall also develop a system to track frequency of contacts with the referral sources to ensure that outreach occurs on a regular basis.

5. The District shall develop and publish printed materials targeted to parents and guardians that inform them of the preschool special education and related services available from District of Columbia Public Schools (“DCPS”), the benefits and cost-free nature of these services, and how to obtain the services. These materials shall be written at an appropriate reading level and be translated into the primary languages spoken in the District. These materials shall be distributed to all primary referral sources (e.g., medical professionals and child care staff), public and public charter schools, public libraries, Income Maintenance Administration Service Centers, public recreation facilities, and other locations designed to reach as many parents or guardians of preschool children who may be eligible for special education and related services as possible.

6. The District shall develop, publish, and distribute tailored printed materials targeted at primary referral sources to inform them of the preschool special education and related services available from DCPS, the benefits and cost-free nature of these services, and how to make a referral. These materials shall be used in conjunction with regular contacts with primary referral sources to increase the usefulness of the materials.

7. The District shall ensure that Early Stages outreach staff (e.g., the Child Find Field Coordinators) contact primary referral sources or a staff member in the primary referral source's office who are instrumental in making referrals at least once a month until a referral relationship is established and then every three months thereafter. The initial meeting shall be face-to-face whenever possible when pursuing referrals from new referral sources and then less frequently thereafter, using the method of contact preferred by the referral sources (e.g., e-mail, texting, or telephone calls).

8. The District shall accept both oral and written referrals at the start of the eligibility determination process, make multiple attempts using different forms of communication (e.g., telephone, postal mail, and e-mail) to contact the parent or guardian of a referred child, and, upon obtaining consent of the parent or guardian, provide feedback to the referral source regarding the outcome of the referral in a timely manner.

9. The District shall assign each family served by Early Stages a single staff member to act as its "case manager" throughout the screening, evaluation, eligibility determination, and IEP process to ensure that families have the necessary information to understand the purposes and functions of all aspects of the Early Stages process and procedures.

10. The District shall maintain a central location that: accepts formal and informal referrals; conducts initial meetings, screenings, assessments, eligibility determinations, IEP development, and offers of placement; and permits parents to register their child with DCPS.

11. The District shall regularly assess the need for and, as necessary, open additional satellite sites to perform the same functions in other wards or use a mobile evaluation unit that is able to perform these functions at multiple locations throughout the District as more children are located who may be in need of preschool special education.

12. The District shall conduct regular screenings of preschool-age children in each ward of the District, and especially in wards in which children experience multiple risk factors.

13. The District shall use existing data (e.g., medical records and reports of prior assessments) at the time of referrals to the extent possible, especially for children from Part C to Part B services, to eliminate unnecessary and duplicative screenings and assessments for eligibility determination purposes.

14. The District shall accept all children exiting Part C who have identified disabilities or significant developmental delays as presumptively eligible for Part B in order to ensure that they do not experience a disruption in services. Presumptively eligible for preschool education means that the information available at the time of the referral of a child—when he or she is nearly three years old and is about to transition from Part C to Part B—shall be presumed to be sufficient to make a decision about the child's eligibility for Part B special education services, unless indicated otherwise by the Part B IEP Team. The Part B IEP Team may find, after reviewing the information available at the time of the referral of the child, that additional data is needed in order to make an eligibility determination. If the Part B IEP Team finds that additional data is needed in order to make an eligibility determination, the child may not begin receiving Part B services prior to an evaluation to determine the child's eligibility for such services. In all cases, including where the existing data are sufficient and where the Part B IEP Team determines that additional data are needed, defendants shall ensure that the Part B eligibility determination is completed prior to the child's third birthday, so that children eligible for Part B special education and related services experience no disruption in the receipt of services.

15. The District shall maintain a reliable data-sharing system between Part C and Part B to ensure that Early Stages receives an ongoing monthly report of all children who will be aging out of Part C within the following six months in order to ensure timely transition meetings.

16. The District shall maintain a reliable database system for tracking children through the Child Find process: from referral to eligibility determination and, if eligible, IEP development, placement, and provision of identified services.

17. The District shall maintain a reliable system for tracking the number and type of placements available for preschool special education and related services throughout the year and expanding the number and types of placement as needed.

18. The District shall develop and apply consistent operational definitions for each of the numeric benchmarks.

19. The District shall understand and ensure that its staff understand the purpose of the benchmarks and the IDEA requirements so that it can comply with them.

20. The District shall improve its data collection policies so that reporting can be accurate.

21. The District shall collect the necessary data to indicate when all services begin, including special education and related services.

C. MODIFICATION OF THE INJUNCTION

22. The numerical requirements for the percentage of preschool children enrolled in Part B set forth above may only be modified by order of the Court upon a showing that 8.5% does not accurately reflect the number of preschool children who reside in the District, including children who are homeless or are wards of the District, that the District should expect to enroll through an effective Child Find system.

23. The programmatic requirements set forth in paragraphs above may be modified by order of the Court. In order to obtain modification by order of the Court, the District must show that another action, to be substituted for the requirement that the District wishes to modify, would be at least as effective.

D. REPORTING

24. Every year, the District shall provide an annual report to plaintiffs and the Court regarding its compliance with the numerical requirements set forth in paragraphs 1-3 above. With regard to the enrollment percentage, the District shall provide the percentage for each month of the prior year, the numerator and denominator for each of those months, and the monthly spreadsheets from which those results are calculated, with any child-identifying information redacted. With regard to the eligibility determination and transition statistics, the District shall provide the data over that year and the District's spreadsheets which show the calculations that yielded those statistics, with any child identifying information redacted.

25. Every six months, the District shall provide reports to plaintiffs and the Court regarding their compliance with the programmatic requirements set forth in paragraphs 4-21 above.

26. For purposes of these reporting requirements, and the termination provisions below, months and years shall be calculated as follows: the first month and year shall start on the first of the next month following the date of the Court's order and subsequent months and years shall start on the anniversary of the first month following the date of the Court's Order. Reports shall be filed within 30 days after the expiration of the period to which the report relates.

27. This order shall remain in effect until the District has demonstrated sustained compliance with the numerical requirements set forth in paragraphs 1-3 above (8.5% of preschool

children enrolled in special education and related services, 95% of preschool children receive timely eligibility determinations, and 95% of children receive smooth and effective transitions). The period of sustained compliance shall begin after the District, during a single year (“the baseline year”), meets or exceeds all three numerical requirements. Following the baseline year, the District may show sustained compliance:

a. In two years if, in the year following the baseline year (Year 1), the District increases the percentage of preschool children enrolled in Part B to at least 9.5% and meets or exceeds the other two numerical requirements and, in the subsequent year (Year 2), the District increases the percentage of preschool children enrolled in Part B to at least 10.5% and meets or exceeds the other two numerical requirements; or

b. In three years if, in the three years immediately following the baseline year (Years 1, 2, and 3), the District meets or exceeds all three numerical requirements.

28. If the District fails to meet any of the numerical requirements in Years 1, 2, or 3, the District must establish a new baseline year of compliance before being able to show sustained compliance.

29. The programmatic requirements set forth in paragraphs 4-21 above shall not terminate until the numerical requirements set forth in paragraphs 1-3 above are satisfied.

30. Plaintiffs have prevailed on both IDEA and Rehabilitation Act claims. Pursuant to 20 U.S.C. § 1415(i)(3)(B)(i)(I) (IDEA) and 20 U.S.C. § 794a(b) (Rehabilitation Act), the District shall pay plaintiffs’ reasonable attorneys’ fees and related nontaxable expenses associated with litigating this suit.

31. Pursuant to Federal Rule of Civil Procedure 54(d)(2), plaintiffs' claim for attorneys' fees and related nontaxable expenses must be made by a motion and submitted to this Court no later than 14 days, herein, or in accordance with a timeframe set in a separate court order.

IT IS SO ORDERED this 18th day of May, 2016.



Royce C. Lamberth
United States District Judge

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

_____)	
DL, et al.,)	
)	
Plaintiffs,)	
)	
v.)	Civil Case No. 05-1437 (RCL)
)	
DISTRICT OF COLUMBIA, et al.,)	
)	
Defendants.)	
_____)	

**CORRECTED MEMORANDUM OPINION &
FINDINGS OF FACT AND CONCLUSIONS OF LAW**

I. INTRODUCTION AND BACKGROUND

The named plaintiffs in this lawsuit—former preschool-age children in the District with various disabilities—allege that defendants have systemically failed to provide, or failed to timely provide, special education and related services to them and other children, in violation of the Individuals with Disabilities Education Act (“IDEA”), 20 U.S.C. § 1400 et seq., section 504 of the Rehabilitation Act, 29 U.S.C. § 794(a), and District of Columbia law. The plaintiffs have been divided into four subclasses and bring claims that correspond to distinct requirements of the IDEA. More specifically, plaintiffs’ claims relate to the District’s alleged failures to: (1) identify substantial numbers of children who are in need of special education and related services, (2) timely evaluate children for special education and related services, (3) timely issue eligibility determinations for special education and related services, and (4) provide smooth and effective transitions for children from Part C to Part B services.

Given that this lawsuit was initiated in 2005, the Court has had ample opportunity to acknowledge the importance of the early intervention programs at stake in this litigation. Indeed, when executed properly, the early intervention mandated by the IDEA and at the core of plaintiffs’ complaint “can work a miracle,” allowing an estimated 75–80% of disabled children to enter “kindergarten alongside every other ordinary five-year-old—without needing further supplemental special education.” *DL v. District of Columbia*, 845 F. Supp. 2d 1, 5 (D.D.C. 2011). These positive outcomes substantially advance the IDEA’s primary goal: “to ensure that all children with disabilities have available to them a free appropriate public education that emphasizes special education and related services designed to meet their unique needs and prepare them for further education, employment, and independent living.” 20 U.S.C. § 1400(d)(1)(A).

In order to achieve its aim, the IDEA provides federal funding to states, including the District of Columbia, on the condition that they “establish policies and procedures to ensure . . . that free appropriate public education [FAPE] . . . is available to disabled children.” *Reid ex rel. Reid v. District of Columbia*, 401 F.3d 516, 518 (D.C. Cir. 2005) (internal quotations omitted); *see also* 20 U.S.C. § 1412(a)(1)(A). More specifically, the IDEA imposes an affirmative obligation on school systems to “ensure that all children with disabilities residing in the State . . . regardless of the severity of their disabilities, and who are in need of special education and related services, are identified, located, and evaluated.” *Reid*, 401 F.3d at 519–20 (internal quotations omitted); 20 U.S.C. § 1412(a)(3)(A). The District’s laws implementing the IDEA require that once a potential candidate for special education services is identified, the District must conduct an initial evaluation and make an eligibility determination within 120 days. D.C. Code § 38-2561.02(a)(1). The duties to identify, locate, and evaluate disabled children are collectively known as the “Child Find” obligation. 20 U.S.C. § 1412(a)(3)(A).

Children under three years of age who are identified, evaluated, and determined eligible may receive early intervention services under Part C of the IDEA. For these children, the Act requires a “smooth and effective” transition from Part C’s early intervention services to Part B’s preschool special education programs. 20 U.S.C. § 1412(a)(9). A smooth and effective transition is one that (1) begins no less than 90 days prior to the child’s third birthday; (2) does not include a disruption in services between Part C and Part B services; and (3) involves Part B personnel. *See D.L. v. District of Columbia*, 302 F.R.D. 1, 7 (D.D.C. 2013); 34 C.F.R. § 303.209. The transition process must include a conference between the child’s family and school officials to determine eligibility for Part B services and to develop a transition plan and an Individualized Education Program (“IEP”). The goal is “a seamless transition between services” under Parts C and B of the Act. 34 C.F.R. § 303.209(a)(3)(ii).

Dating back to 2005, the procedural history of this case is long and somewhat complex, centering in large part on issues relating to class certification. First, in August 2006 this Court certified a plaintiff class pursuant to Federal Rule of Civil Procedure 23(b)(2), defining it as:

All children who are or may be eligible for special education and related services, who live in, or are wards of, the District of Columbia, and (1) whom defendants did not identify, locate, evaluate or offer special education and related services to when the child was between the ages of three and five years old, inclusive, or (2) whom defendants have not or will not identify, locate, evaluate or offer special education and related services to when the child is between the ages of three and five years old, inclusive.

DL v. District of Columbia, 237 F.R.D. 319, 324 (D.D.C. 2006); *see also* Mem. Order 3–4, ECF No. 389.

With this group of children serving as the original plaintiff class, in 2010, the Court found that the District’s policies were inadequate to meet its obligations under the IDEA and that they violated section 504 of the Rehabilitation Act, which prohibits discrimination on the basis of

disability in programs receiving federal funding. *See* Mem. Op. 4–5, ECF No. 389 (citing *DL v. District of Columbia*, 845 F. Supp. 2d 1, 10–17 (D.D.C. 2011)). First, on August 10, 2010, the Court partially ruled for plaintiffs on summary judgment and found that, at least through 2007, the District violated the IDEA and District law by denying a FAPE to numerous preschool-age children with disabilities. *DL v. District of Columbia*, 730 F. Supp. 2d 84, 95 (D.D.C. 2010). The Court in 2010 also found that, at least through 2007, the District violated the Rehabilitation Act by demonstrating “bad faith or gross misjudgment” in failing to bring itself into compliance with the IDEA, even though it “knew that [its] actions were legally insufficient.” *See* Mem. Op. 4–5, ECF No. 389.

Following this summary judgment ruling, the Court held a two-day bench trial on the 6th and 7th of April 2011 regarding the District’s liability and plaintiffs’ remaining claims for declaratory and injunctive relief for the period from January 1, 2008, through the trial. After hearing the evidence at trial, the Court found that the District’s prior liability extended to April 6, 2011. To remedy these violations, the Court then issued a structural injunction, which included programmatic requirements and numerical goals that would remain in effect until the District demonstrated sustained compliance. Mem. Op. & Findings of Fact and Conclusions of Law ¶¶ 138–76.

After the trial but before this Court issued its final decision, the Supreme Court decided *Wal-Mart Stores, Inc. v. Dukes*, 131 S. Ct. 2541 (2011), which clarified the proper interpretation of the commonality requirement for class certification under Federal Rule of Civil Procedure 23(a)(2) (“FRCP 23(a)(2)”). *Wal-Mart* essentially found that to establish commonality under FRCP 23(a)(2), a class must present a common question that is “capable of classwide resolution—

which means that determination of its truth or falsity will resolve an issue that is central to the validity of each one of the claims in one stroke.” *Id.* at 2551.

Immediately following *Wal-Mart*, the defendants in this case sought to decertify the consolidated plaintiff class, arguing that it was too broadly defined to satisfy FRCP 23(a)(2)’s commonality requirement. Essentially, the defendants argued that the single and undivided class could not satisfy FRCP 23(a)(2) because it “bundled together multiple different allegations of a variety of different provisions of the IDEA, the Rehabilitation Act, and local District of Columbia law” and “amalgamat[ed] . . . a variety of provisions of a single statutory scheme.” *DL v. District of Columbia*, 277 F.R.D. 38, 42 (D.D.C. 2011). This Court rejected that argument, ruling that the plaintiff class satisfied FRCP 23’s commonality requirement because it presented the common question of whether or not each class member received a FAPE. The Court then ruled that the class members’ “differing allegations only represent the differing ways in which defendants have caused class members’ common injury,” that is, the “denial of their statutory right to a free appropriate public education.” *Id.* at 45.

After the Court denied defendants’ motion to decertify the class, the District filed an appeal to the D.C. Circuit and ultimately prevailed. The D.C. Circuit vacated the Court’s original order on class certification grounds—which as a result effectively and entirely vacated the Court’s various findings of liability. The Circuit remanded the case for further proceedings, holding:

After *Wal-Mart* it is clear that defining the class by reference to the District’s pattern and practice of failing to provide FAPes speaks too broadly because it constitutes only an allegation that the class members “have all suffered a violation of the same provision of law,” which the Supreme Court has now instructed is insufficient to establish commonality given that the same provision of law “can be violated in many different ways.” *Wal-Mart*, 131 S. Ct. at 2551. In the absence of identification of a policy or practice that affects all members of the class in the manner *Wal-Mart* requires, the district court’s analysis is not faithful to the Court’s interpretation of Rule 23(a) commonality.

DL v. District of Columbia, 713 F.3d 120, 126 (D.C. Cir. 2013).

On remand from the D.C. Circuit, this Court was to reconsider whether a “class, classes, or subclasses may be certified,” *id.* at 129, and ultimately did so, certifying the following four plaintiff subclasses in 2013:

SUBCLASS 1: All children, who, when they were or will be between the ages of three and five, were or will be disabled, as defined by the IDEA, lived or will live in, or were or will be wards of, the District of Columbia, and were not or will not be identified and/or located for the purposes of offering special education and related services;

SUBCLASS 2: All children, who, when they were or will be between the ages of three and five, were or will be disabled, as defined by the IDEA, lived or will live in, or were or will be wards of, the District of Columbia, and did not or will not receive a timely initial evaluation for the purposes of offering special education and related services;

SUBCLASS 3: All children, who, when they were or will be between the ages of three and five, were or will be disabled, as defined by the IDEA, lived or will live in, or were or will be wards of, the District of Columbia, and did not or will not receive a timely determination of eligibility for special education and related services; and

SUBCLASS 4: All children with disabilities, as defined by the IDEA, who lived in or will live in, or are or will be wards of, the District of Columbia, and who participated or will participate in early intervention programs under Part C of IDEA, and who participated or will participate in preschool programs under Part B, and who did not or will not have a “smooth and effective” transition from Part C to Part B by the child’s third birthday.

Mem. Op. 9, ECF No. 389.

After these subclasses were certified, plaintiffs submitted a second amended complaint, alleging violations of the IDEA, Rehabilitation Act, and DC law specific to each subclass. Following another round of discovery, the parties filed cross-motions for summary judgment in 2014. The Court partially granted plaintiffs’ motion for summary judgment, finding that the District was liable for violating the IDEA and District law for the period up to April 6, 2011. Specifically, these claims corresponded to the four subclasses and related to the District’s failure to (1) identify substantial numbers of children who are in need of special education and related services, (2) timely to evaluate children for special education and related services, (3) timely to issue eligibility determinations for special education and related services, and (4) provide smooth

and effective transitions for children from Part C to Part B services. Mem. Op. 9–14, 16–20, ECF No. 444. The Court did not grant plaintiffs summary judgment on their Rehabilitation Act claims for that same period, concluding that based on the record, it could not determine “whether the District’s actions reached ‘bad faith or gross misjudgment’ as to each subclass.” *Id.* at 15, 20.

In addition to partially ruling for plaintiffs, the Court also partially ruled for defendants on summary judgment. Specifically, the Court ruled for defendants on (1) plaintiffs’ IDEA and District law claims related to the failure timely to evaluate children for special education and related services for the period from April 6, 2011 to the present, and (2) all of plaintiffs’ Rehabilitation Act claims for the period from March 22, 2010 to the present. *Id.* at 36–37, 39–42; *see also* Order, ECF No. 491.

The remainder of plaintiffs’ claims went to trial. These claims fell into two categories and relate to two distinct time periods. First, plaintiffs allege that the District has violated the IDEA and District law from April 6, 2011 through the present by failing to adequately identify preschool-age disabled children for the purpose of offering them special education and related services (subclass 1); failing to timely issue eligibility determinations for special education and related services for preschool-age children (subclass 3); and failing to provide a smooth and effective transition from the early intervention program under Part C of the IDEA to preschool special education and related services under Part B by the child’s third birthday (subclass 4).

Second, plaintiffs claim that the District violated the Rehabilitation Act for the period up to March 22, 2010 by failing adequately to identify preschool-age disabled children for the purposes of offering them special education and related services (subclass 1); failing timely to evaluate preschool-age children for special education and related services (subclass 2); failing timely to issue eligibility determinations for special education and related services for preschool-

age children (subclass 3); and failing to provide a smooth and effective transition from the early intervention program under Part C of the IDEA to preschool special education and related services under Part B by the child's third birthday (subclass 4); and that the District acted in bad faith or gross misjudgment as to each subclass.

Trial was held on the 12th, 13th, and 16th of November 2015. Based on all of the evidence and argument presented, the Court makes the following findings of fact and conclusions of law, and will, consistent with these findings, enter judgment in favor of plaintiffs. In short, the District has improved, but started at such a low base when this litigation began, that it is still failing to comply with federal and District law.

II. FINDINGS OF FACT

A. CREDIBILITY OF PLAINTIFFS' WITNESSES

1. Dr. Carl J. Dunst

1. Plaintiffs retained Dr. Carl Dunst as an expert to study and assess the District's compliance with its Child Find-related obligations. Direct Test. of Dr. Carl J. Dunst ¶ 7, Oct. 22, 2015, ECF No. 475-1 ("2015 Dunst Direct").¹

2. Dr. Dunst holds a Bachelor's degree in education from Temple University, a Master's degree in Early Childhood Special Education from the George Washington University, and a Doctorate in Developmental Psychology from the George Peabody College at Vanderbilt University. *Id.* at ¶ 1.

¹ The Court cites the redacted version of Dr. Dunst's testimony, which was filed publicly. In all cases in which a document was both filed publicly with protected information redacted pursuant to the Court's Protective Order, *see* ECF No. 407, and under seal without redactions (as with Dr. Dunst's written direct testimony), the Court cites to the public version, but relied on the sealed information as necessary.

3. Dr. Dunst has worked as an early intervention practitioner, has directed an IDEA Part C early intervention and a Part B preschool special education program, and has taught numerous courses on infant and preschool development, assessment, and intervention practices. *Id.* at ¶ 2.

4. From 2003 to 2010, Dr. Dunst was the Principal Investigator at a research and training center funded by the U.S. Department of Education, Office of Special Education Programs (“OSEP”) called the Tracking, Referral, and Assessment Center for Excellence (“TRACE”). *Id.* at ¶ 4. TRACE investigated Child Find-related practices in IDEA Part C early intervention and IDEA Part B preschool special education programs in all 50 states, the District, and other jurisdictions, and researched and developed evidence-based practices for improving Child Find-related activities. *Id.* He has also been the Principal Investigator or Co-Principal Investigator of other OSEP-funded research and training projects that focus on early childhood intervention practices. *Id.* at ¶ 5.

5. Dr. Dunst is currently a Research Scientist and Director at the Orelena Hawks Puckett Institute in Asheville and Morganton, North Carolina, where he conducts research, evaluation, intervention, and training in Part C, Part B, early Head Start, Even Start, childcare and preschool practices, family-centered help-giving practices, and Child Find, referral, and outreach practices. *Id.* at ¶ 3.

6. Due to his extensive experience, Dr. Dunst is a recognized expert in infant and early childhood assessment practices, family systems intervention practices, infant and early childhood intervention practices, family-centered help-giving practices, and Child Find, referral, and outreach practices. *Id.* at ¶ 6; *see also* E-mail from Jerri Johnston-Stewart, OSSE, to Alison Whyte, May 27, 2010, Pls.’ Ex. 125, at 1 (“Dr. Carl Dunst is one of the leading authorities in [the] United

States on early childhood/early childhood special education and is highly regarded among OSEP and its technical assistance providers.”).

7. Dr. Dunst has received a number of awards from professional organizations for his research and practice. *Id.* ¶ 6. He has an extensive list of publications about Child Find-related policies and practices. Curriculum Vitae of Carl J. Dunst, Pls.’ Ex. 268, at 22–100.

8. During trial and in post-trial filings, the District attacked the credibility of Dr. Dunst on the basis that he had never logged into or received relevant training on the District’s database, called Special Education Database System, or “SEDS.” *See* Trial Tr., Nov. 12, 2015, 102:20–25, 108:7–13; Defs.’ Proposed Findings of Fact & Conclusions of Law ¶ 12, ECF No. 513. The Court has previously considered and rejected this argument, finding that Dr. Dunst is qualified to analyze the District’s Child Find-related obligations and assess its compliance. *See* Mem. Op. 26 n.1, ECF No. 444 (“[I]t is not clear why Dr. Dunst needed to understand how the database operates in order to analyze the data pulled from it.”).

9. For these reasons, following the previous trial, the Court found that Dr. Dunst is a qualified expert in analyzing the District’s Child Find-related obligations for preschool-age children. Mem. Op. & Findings of Fact and Conclusions of Law ¶ 8, ECF No. 294. The Court also found that Dr. Dunst “testified credibly, demonstrated specific knowledge of the relevant literature, and explained clearly how his conclusions were based on both his research and personal experience in the field.” *Id.* at ¶ 9. Based on the paragraphs above, the Court makes the same findings for the current period.

2. Dr. Leonard Cupingood

10. Plaintiffs retained Dr. Leonard Cupingood as an expert to study and provide statistical analysis of the District’s data related to its compliance with IDEA requirements related

to special education services. 2015 Cupingood Direct Test. ¶ 22, Oct. 22, 2015, ECF No. 475-2 (“2015 Cupingood Direct”).

11. Dr. Cupingood holds a Bachelor’s degree in Mathematics from Rutgers University and a Master’s and a Doctorate in Statistics from Temple University. *Id.* at ¶ 1.

12. Dr. Cupingood is currently a Director of BLDS, LLC, a position in which he develops and applies statistical models and analyses for a wide variety of settings and industries. *Id.* at ¶ 2. He has extensive experience conducting statistical analysis in a variety of litigation matters, including employment discrimination cases and audits of insurance companies regarding claims processing. *Id.* at ¶¶ 2–3. He has provided deposition and trial testimony as a database expert and as a statistician. *Id.* at ¶¶ 9–10.

13. Dr. Cupingood is a member of the American Statistical Association and has published several statistics-based articles. *Id.* at ¶ 8. Curriculum Vitae of Leonard A. Cupingood, Pls.’ Ex. 269, at 3.

14. For these reasons, following the previous trial, the Court found that Dr. Cupingood is a qualified expert in statistics. Mem. Op. & Findings of Fact and Conclusions of Law ¶ 14, ECF No. 294. The Court also found that Dr. Cupingood provided credible and compelling testimony during trial regarding the District’s Child Find-related obligations, including the timeliness of the District in determining the eligibility for special education and related services of children ages three through five, and the number of preschool-age children who were referred each year for special education services *Id.* at ¶¶ 14–15.

15. In addition to statistics, Dr. Cupingood is an expert in computer programming and databases. 2015 Cupingood Direct ¶ 5. He started working as a computer programmer in 1968 for Leeds and Northrup Company. *Id.* There, he developed computer programs to monitor power

systems and was the lead programmer responsible for developing a system to monitor power to Disney World's monorail that ran to its rides before the amusement park opened in 1971. *Id.* In 1972, he began working for Ketron, Inc., a consulting firm that obtained government contracts to analyze the effectiveness of social programs. *Id.* at ¶ 6. On that project, he developed computer programs to analyze survey and census data, constructed databases to organize the data, cleaned the data for inconsistencies, and then analyzed the cleaned data. *Id.*

16. Later, Dr. Cupingood began working on litigation-related data analysis. *Id.* at ¶ 7. For example, in employment cases, he reviewed employer databases for inconsistencies (e.g., multiple Social Security Numbers or dates of birth corresponding with a single name), cleaned the data, and then analyzed the cleaned data. *Id.* Each employer had its own database with different data organization techniques and variables. *Id.* In some cases, if the employer did not use an electronic database, he had to build a database from the company's paper records before he could analyze the data. *Id.* Over the course of 40 years, he worked as a database manager—requiring computer programming, database construction, and cleaning skills—on approximately 300 cases. *Id.*

17. Since he obtained his doctorate in 1985, he has offered testimony as a statistical expert in approximately 40 cases. *Id.* at ¶ 9. Although the primary focus of his testimony in those cases has been statistical analysis, he would not have been able to perform that analysis if he had not initially performed the programming and required data cleaning. *Id.* He does not recall a single case in which he provided testimony as a statistical expert in which he did not also perform or supervise all of the necessary programming and data cleaning. *Id.* Moreover, in a small number of cases, Dr. Cupingood has testified as a database expert only. *Id.* at ¶ 10.

18. In the 1980's, Dr. Cupingood was appointed by a Special Master in the United States District Court of the Eastern District of Pennsylvania as an automation consultant. *Id.* at ¶ 11. His responsibility was to supervise computer programmers to ensure that the data system, which they created to monitor the referral and dispatching process of a union operating under the court's supervision, collected the necessary data and produced the required output. *Id.* Thus, over 20 years ago, Dr. Cupingood was recognized as an expert in the field of computer programming and databases.

19. Dr. Cupingood has substantial additional experience in computer programming and statistics. Cupingood Supplemental Direct Test., Nov. 2, 2015, ECF No. 489-1. Similar to Dr. Dunst, at trial and in post-trial filings, the District attacked Dr. Cupingood's credibility because he had never logged into SEDS or received training on the database. Trial Tr., Nov. 12, 2015, 30:20–31:9, 44:25–45:3; Defs.' Proposed Findings of Fact & Conclusions of Law ¶ 4, ECF No. 513. The Court previously rejected these arguments and will do the same today. Mem. Op. 30, ECF No. 444 (“Dr. Cupingood does not need to have any particular understanding of special education policies or databases to assess the data provided to him. Furthermore, it is entirely unclear to the Court why Dr. Cupingood needed to access the database himself rather than rely on the data provided by the District.”).

20. Based on findings paragraphs 11–19, the Court again finds that Dr. Cupingood is a qualified expert in statistics, and also finds that he is an expert in computer programming and databases. The Court also finds that Dr. Cupingood provided credible and compelling testimony during trial regarding the District's data related to the number of preschool-age children who are enrolled, the number of preschool-age children who timely received an initial eligibility determination for special education and related services, the number of children who received a

smooth and effective transition from Part C to Part B services, and the District's special education databases.

3. Lauren Seffel

21. Plaintiffs moved for the admission under Rule 1006 of the Federal Rules of Evidence of a summary of facts related to individual children in the District who were referred for special education services, which was compiled by plaintiffs' counsel. Plaintiffs' Factual Summary, Pls.' Ex. 270, ECF No. 456-1 (sealed). Over defendants' objection, the Court granted that motion, *see generally* Mem. Op., ECF No. 478, and required the attorney that compiled the summary to appear for a deposition by the District's counsel and to introduce the summary at trial and be subject to cross-examination. *Id.* at 16. Lauren Seffel, an attorney for plaintiffs, did so. Ms. Seffel provided credible testimony regarding the creation of plaintiffs' Factual Summary.

B. CREDIBILITY OF DEFENDANTS' WITNESSES

22. The District offered the testimony of 13 fact witnesses, 11 of whom are District of Columbia's Office of the State Superintendent of Education ("OSSE") or District of Columbia Public Schools ("DCPS") employees. Those witnesses testified regarding positive improvements in the District's policies, procedures, and practices. These witnesses did not directly rebut or discuss the statistical conclusions of plaintiffs' expert witnesses regarding the effectiveness of the District's policies, procedures, and practices, nor did any of the District's witnesses challenge the findings of plaintiffs' Factual Summary.

23. Dr. Amy Maisterra is the Assistant Superintendent of Elementary, Secondary, and Specialized Education at OSSE. Direct Examination of Dr. Amy Maisterra ¶ 1, Oct. 22, 2015, ECF No. 477-1. She holds a doctorate in educational leadership from the University of Pennsylvania and a master's degree in clinical social work from the Smith College School for

Social Work. Her background includes professional experience in both educational and behavioral health. *Id.*

24. Kerda DeHaan is a Special Assistant for IDEA Part C at OSSE; she has spent approximately six years with the agency, and her work focuses on the District's Part C program, also known as the Strong Start DC Early Intervention Program ("DC EIP"). Direct Examination of Kerda DeHaan ¶ 1, Oct. 20, 2015, ECF No 477-2.

25. Dr. Nathaniel Beers is the Chief Operating Officer ("COO") for DCPS. Direct Examination of Dr. Nathaniel Beers ¶ 1, Oct. 21, 2015, ECF No. 477-3. He is also a developmental and behavioral pediatrician, and his background includes serving as the Chief of DCPS's Office of Specialized Instruction, Executive Director of the Early Stages Center, and Deputy Director for Community Health Administration with the District's Department of Health. *Id.* Dr. Beers was previously employed by Children's National Medical Center in a variety of capacities, where, among other tasks, he oversaw the largest primary care clinic in the District. *Id.* He is a past president of the District of Columbia Chapter of the American Academy of Pediatrics and a current member of the Council of School Health for the National American Academy of Pediatrics. *Id.*

26. Dr. Travis Wright is the Deputy Chief for Early Childhood Education at DCPS. He holds a doctorate degree in human development and psychology from Harvard University. Direct Examination of Dr. Travis Wright ¶ 1, Oct. 21, 2015, ECF No. 477-4. His areas of expertise focus on teaching in highly stressed communities, teaching children who have experienced trauma, and early childhood education. *Id.* Dr. Wright has been a faculty member in education at George Washington University and the University of Wisconsin-Madison. *Id.* Dr. Wright has served as the Research in Review Editor for *Young Children*, a journal published by the National Association for the Education of Young Children, and he was a Board Member of the Early

Childhood Education Special Interest Group of the American Educational Research Association.
Id.

27. Donna Anthony is the Assistant Superintendent for Health and Wellness at OSSE. Direct Examination of Donna Anthony ¶ 1, Oct. 22, 2015, ECF No. 477-5. Through October 16, 2015, she worked at DCPS, primarily serving as Chief of Staff and Interim Chief of the Office of Specialized Instruction. *Id.* She holds a master's degree in public health from George Washington University. *Id.*

28. Brian Massey is the Child Find Field Coordinator for Ward 6, at the Early Stages Center. Direct Examination of Brian Massey ¶ 1, Oct. 22, 2015, ECF No. 477-6. Previously, Mr. Massey served as the Child Find Field Coordinator for Medical Constituency Outreach at Early Stages, and he has worked as a classroom educator at the Capital City Public Charter School in Washington, D.C. *Id.*

29. Sean Compagnucci is the Executive Director of the Early Stages Center. Direct Examination of Sean Compagnucci ¶ 1, Oct. 22, 2015, ECF No. 477-7 (“Compagnucci Direct”). Mr. Compagnucci joined Early Stages as a Child Find Field Coordinator shortly after the organization was created in 2009; he has also held the positions of Child Find Program Manager and Deputy Director. *Id.*

30. Carla Watson is the Deputy Chief of Compliance and Policy for the Office of the Chief Operating Officer at DCPS. Direct Examination of Carla Watson ¶ 1, Oct. 21, 2015, ECF No. 477-8. She has worked as a child advocate, providing legal services in New York, and as a guardian ad litem and education advocate for students in foster care in the District. *Id.* Ms. Watson joined DCPS in February 2008, as a Senior Policy Associate on the Special Education Reform Team and has subsequently worked on and overseen compliance and policy. *Id.*

31. Jessica Roche is the Director of the Policy and Legal Strategy Team within the Compliance and Policy Division at DCPS. Direct Examination of Jessica Roche ¶ 1, Oct. 22, 2015, ECF No. 477-9. She began working for DCPS as a Program Coordinator on the Least Restrictive Environment Support and Policy Team in August 2011, and has been promoted several times to her current position. *Id.* Ms. Roche holds a B.S.Ed. in Inclusive Elementary and Special Education and is licensed to practice law in both New Hampshire and Massachusetts. *Id.* She works under Ms. Watson, and her work focuses primarily on Early Stages compliance and monitoring. *Id.*

31(a). Peter Marshall is a manager with Public Consulting Group, Inc. (PCG). His division of PCG—PCG Education—is a provider of comprehensive, web-based student case management solutions for special education. Direct Examination of Peter Marshall ¶ 1, Oct. 22, 2015, ECF No. 477-10. The District’s Special Education Data System (SEDS) is a customized version of one such product, EasyIEP. *Id.* at ¶¶ 1–2.

31(b). At the time of trial, Jeff Noel was the Assistant Superintendent of Data, Accountability, and Research for OSSE. Direct Examination of Jeff Noel ¶ 1, Oct. 22, 2015, ECF No. 477-11. Prior to serving in this position, he was OSSE’s Data Management Director for four years, and he has been involved in the design and maintenance of education data systems since 1997. *Id.*

31(c). Anupama Proddutur is a Data Analyst for OSSE. Direct Examination of Anupama Proddutur ¶ 1, Oct. 22, 2015, ECF No. 477-12. She is assigned to the Specialized Education Data Team, where she is responsible for special education data collection and reporting, including federal reporting to the OSEP. *Id.* at ¶¶ 1–2.

31(d). Chenise Purvis is the mother of a child who went through the Early Stages Process, and she provided testimony regarding her experience with and impressions of Early

Stages and its staff. Direct Examination of Chenise Purvis ¶¶ 1–5, Oct. 22, 2015, ECF No. 477-13.

32. Dr. Maxine Freund is the Associate Dean for Research and External Relations at the George Washington University’s Graduate School of Education and Human Development. Direct Examination of Dr. Maxine Freund ¶ 1, Oct. 22, 2015, ECF No. 477-14 (“2015 Freund Direct”). Dr. Freund is also a tenured professor in the University’s Department of Special Education and Disabilities Studies and a resident of the District. *Id.*

33. During her thirty-year career as a professor, Dr. Freund has designed and implemented doctoral leadership programs and master’s degree programs that, among other things, prepared infant and early childhood specialists for early intervention work with atypical infants, toddlers, and preschoolers. *Id.* Many of these programs were funded by the United States Department of Education through competitive grant programs and by national and local foundations interested special education for at-risk and special-needs populations. *Id.*

34. Dr. Freund has authored extensive publications and presentations in the special education and early childhood education fields. Defs.’ Ex. 55, at 5–12. As an Associate Dean of the George Washington University, she also directs doctoral candidates’ dissertations on special education and early childhood education and has developed a specific focus on the special education eligibility determination process for preschool-age children. *Id.*

35. Based on paragraphs 32–34, the Court concludes that Dr. Freund is qualified as an expert to analyze the District’s Child Find obligations as they relate to preschool children. The Court also finds that Dr. Freund testified credibly, demonstrated specific knowledge of the relevant literature, and explained clearly how her conclusions were based on her research, personal experience in the field, and in depth examination of the District’s preschool Child Find system.

36. Like the District's fact witnesses, however, Dr. Freund was largely silent as to the statistical conclusions of plaintiffs' expert witness, which plaintiffs offered to highlight the ineffectiveness of the District's policies, procedures, and practices.

C. BACKGROUND

37. Part B of IDEA concerns special education and related services for three-to-five-year-old children. 20 U.S.C. §§ 1411–1419 (“Assistance for Education of All Children with Disabilities”); § 1412(a)(1)(a) (requiring states to have “in effect policies and procedures to ensure that . . . [a] free appropriate public education is available to all children with disabilities residing in the State between the ages of 3 and 21, inclusive”).

38. Early Stages is a DCPS center, which is the primary facility for providing Part B special education screenings, evaluations, and eligibility determinations for three-to-five-year-old children in the District. *See* Compagnucci Direct ¶ 2; *see generally* Expert Report of Dr. Maxine Freund, Sept. 14, 2009, ECF No. 172-2 (“2009 Freund Report”). Early Stages is also responsible for outreach to find children in need of special education and related services. Compagnucci Direct ¶ 5.

39. If a parent, teacher, or any other person with knowledge of a child in the District has a concern that a child requires special education services, they can contact Early Stages. *See* Compagnucci Dep. 6:19–7:13, June 2, 2014, Pls.’ Ex. 15 (“Compagnucci Dep.”); Early Stages Family Care Manual, Feb. 8, 2011, Pls.’ Ex. 72, at DL2014 177 (“Family Care Manual”). Early Stages is required to screen the children, which it does through a questionnaire. *See* Compagnucci Direct ¶ 24; Compagnucci Dep. 8:11–9:9. Early Stages then assesses the child to determine the child’s needs. Compagnucci Direct ¶ 27.

40. Once those assessments are performed (together referred to as the evaluation), *see* Compagnucci Dep. 26:10–13, Early Stages determines whether the child is eligible for special education and related services. *See* Compagnucci Direct ¶ 29. The District must complete the evaluation and provide an eligibility determination within 120 days of the child’s referral. *See infra* paras. 254–57, 262. If the child is eligible, then Early Stages must prepare an Individualized Education Plan (“IEP”) and identify a location (*i.e.*, a school) where the services will be provided. Compagnucci Direct ¶ 29; Compagnucci Dep. 13:7–14:4.

41. Services include (1) special education and (2) related services. Special education is “specially designed instruction, at no cost to parents, to meet the unique needs of a child with a disability.” 20 U.S.C. § 1401(29). Related services are “transportation, and such developmental, corrective, and other supportive services . . . as may be required to assist a child with a disability to benefit from special education” 20 U.S.C. § 1401(26).

42. At the time of the last trial, Dr. Nathaniel Beers was the Executive Director of Early Stages. Test. of Nathaniel Beers ¶ 1, Mar. 16, 2011, ECF No. 210-1 (“2011 Beers Direct”). Sean Compagnucci is now the Executive Director. Compagnucci Direct ¶ 1.

43. Part C refers to the part of IDEA that relates to special education services for children younger than three years old. 20 U.S.C. §§ 1431–1444 (“Infants and Toddlers with Disabilities”); § 1432(5) (defining “infant or toddler with a disability”). Children in Part C receive an Individual Family Service Plan (“IFSP”), rather than an IEP. *See* Family Care Manual, Pls.’ Ex. 72, at DL2014 194. Part C services are the responsibility of a District program called Strong Start, not Early Stages. Direct Examination of Kerda Dehaan ¶ 1.

44. The District has summarized the main differences between Part B and Part C services:

Early intervention [Part C] services are provided within a natural environment for the child [*e.g.*, the home] and services are family centered. They can include nursing and medical care in some cases. . . .

Special education [Part B] services are usually provided in a public school, Head Start center, or inclusive community early care and education center. [Part B] [o]nly provides nursing or medical care services [*i.e.*, related services] that are considered necessary for the child to access educational programs.

Family Care Manual, Pls.’ Ex. 72, at DL2014 194.

45. Pursuant to the IDEA, children must receive a “smooth and effective” transition from Part C to Part B services by the child’s third birthday. 20 U.S.C. § 1412(a)(9). That requires Part B special education and related services to be provided to transitioning children by their third birthdays. *Id.* (“By the third birthday of such a child, an individualized education program . . . has been developed and is being implemented for the child”); Mem. Op. 39, ECF No. 444 (“*All* services must commence for a transition to be smooth and effective.” (emphasis in original)).²

46. On April 15, 2014, the District issued Policies and Procedures for the Extended IFSP Option for Children age three to four. *See* Pls.’ Ex. 52. This policy permits parents to choose to have their child receive their Part C services, with an educational component, until the beginning of the school year after he or she turns four years old. *Id.* at 2.

47. The District Office of the State Superintendent of Education (“OSSE”) is the State Education Agency (“SEA”) for the District “serves as the lead and local agency for Part C,” and “fulfills state-level obligations for Part B and Part C of IDEA.” Direct Test. of Amy Maisterra ¶ 3, Mar. 16, 2011, ECF No. 210-3 (“2011 Maisterra Direct”). “OSSE is responsible for monitoring the performance of the District’s Local Education Agencies (‘LEAs’), of which [DCPS] is the largest.” *Id.*; *see also* Direct Examination of Amy Maisterra ¶ 5, Oct. 22, 2015, ECF No. 477-1

² The Court granted the District’s motion for reconsideration of this statement insofar as “the appropriate standard for implementation of an IEP shall be determined post-trial.” Order, ECF No. 480.

(“2015 Maisterra Direct”). OSSE assumed these roles from DCPS after OSSE was created in 2007. 2009 Freund Report 4.

48. OSSE obtains federal IDEA Part B funds from OSEP and allocates those funds among District LEAs. 2011 Maisterra Direct ¶¶ 8, 21. Accordingly, OSEP monitors OSSE’s compliance—and OSSE monitors LEAs compliance—with IDEA Part B requirements. *Id.*

49. Dr. Amy Maisterra is OSSE’s Assistant Superintendent of Elementary, Secondary, and Specialized Education. 2015 Maisterra Direct ¶ 1. She was previously OSSE’s Assistant Superintendent for the Division of Specialized Education. Maisterra Dep. 6:11–14, June 2, 2014, Pls.’ Ex. 14. OSSE’s Division of Specialized Education “is responsible for overseeing the development and promulgation of state policy governing special education; monitoring LEAs for compliance with IDEA as well as other federal and local regulations and court-ordered consent decrees; allocation and administration of IDEA grant funds to LEAs and other public agencies; provision of training and technical assistance to LEAs; and investigation and resolution of state complaints relating to special education.” OSSE website, Pls.’ Ex. 58.

50. DCPS keeps documents and data related to children who receive referrals to Early Stages in the Early Stages database, part of which is then uploaded into a different database, called the SEDS. Compagnucci Dep. 20:14–21:2, 21:17–22:11, 32:13–33:2, 43:3–6, 43:15–44:16, 45:9–48:10, Aug. 12, 2014, Pls.’ Ex. 21. OSSE requires documents and data related to children who receive referrals to be uploaded into SEDS. 2011 Maisterra Direct ¶ 7; Maisterra Dep. 336:18–337:3, July 2, 2014, Pls.’ Ex. 18.

51. OSSE uses SEDS to prepare statistics for this case and for reporting to OSEP. Direct Examination of Anupama Proddatur ¶ 2, ECF No. 477-12 (“Proddatur Direct”); Proddatur Dep., July 2, 2014, Pls.’ Ex. 18; Maisterra Dep. 336:18–337:3, July 2, 2014, Pls.’ Ex. 18. These

statistics include data such as the number of children who have IEPs at a given point in time, the percentage of children who receive an eligibility determination within 120 days over a given period of time, and the percentage of children who receive a smooth and effective transition from Part C to Part B services over a given period of time. *See* Proddutur Direct ¶ 2. To calculate the percentage of children who receive a smooth and effective transition from Part C to Part B services, in addition to SEDS, OSSE uses data from the Early Stages database and the Part C database (a separate database that tracks data related to children receiving Part C services). *See* Proddutur Dep. 164:17–165:11, July 2, 2014, Pls.’ Ex. 18; Trial Tr., DeHaan Test., Nov. 13, 2015, 17:21–18:8.

52. Plaintiffs contend that the District’s policies, procedures, and practices are deficient, as evidenced in large part by the District’s own data. Essentially, they allege that the District’s statistics—which on their face help to demonstrate the District’s compliance—are prepared in a way that makes it appear that the District’s policies, procedures, and practices are more effective than they actually are. Indeed, the bulk of the plaintiffs’ evidence examines the data that underpins the District’s contention that it is and has been serving over 8.5% of the preschool-age population, performing timely eligibility determinations for over 95% of referred children, and smoothly and effectively transitioning over 95% of children into Part B. The plaintiffs argue that these numbers are inflated because the District applies incorrect assumptions and in some cases misreports outcomes. The District counters plaintiffs’ arguments primarily by focusing on the enactment and design of its policies and arguing that its reporting practices were “developed around the federal Department’s guidance.” Defs.’ Proposed Findings of Facts and Conclusions of Law ¶ 65, and produce accurate and valid results “across staff and across reports.” *Id.* at 64.

In other words, the District fails to challenge plaintiffs' evidence on its own terms. As the defendants point out, the plaintiffs litigation strategy has shifted from the 2011 trial to the more recent trial conducted in November 2015. *See, e.g.*, Trail Tr., Nov. 12, 2015, 19:8–10 (District's counsel: "[T]he statistics that plaintiffs offer today are not the statistics that the Court credited in 2011. It's not apples to apples."). Indeed, the plaintiffs' arguments and evidence have evolved to focus on the outcomes and effectiveness of the District's policies and the accuracy of its statistical conclusions in addition to the design of the policies themselves. *See, e.g., id.* at 20:6–8 (District's counsel: "This time, unlike in 2011, plaintiffs will not critique any major or substantive aspect of the District's preschool Part B program.").

But as plaintiffs' arguments have developed, the defendants for the most part presented evidence as though plaintiffs' litigation strategy has remained constant since 2011. The District claims its statistics show its policies are effective and are implemented a way that complies with the IDEA's requirements. In presenting this evidence, however, the District does very little to counter the plaintiffs' core theory and substantial testimony that the District's self-reported data significantly inflate the District's actual rates of compliance. Even assuming the District "has always been clear with OSEP on how the District selects data points, collects data, and calculates statistics," Defs.' Proposed Findings of Fact and Conclusions of Law ¶ 65 (quoting 2015 Maisterra Direct ¶ 15), it does not follow that the District's assumptions are well founded and that its reporting is accurate.

Indeed, plaintiffs have offered ample evidence that speaks to the substance of the District's statistics, while the District has responded primarily with conclusory assertions that its statistics are "accurate[e] and valid[] across staff and across reports," *id.* at ¶ 64, and with evidence showing it has made noticeable improvements since 2011. In the Court's view, however, substantial

progress and good faith efforts are insufficient to satisfy the IDEA’s affirmative duties. For the District to comply with the IDEA and District law, its policies and procedures must produce the proper results—something that plaintiffs’ evidence demonstrates they are currently failing to do.

53. While the District’s policies, procedures, and practices are important, the outcomes of those policies, procedures, and practices are even more critical. The Court made this clear when it adjudicated the motions for summary judgment. Mem. Op. 18–19, ECF No. 444 (“The question . . . is whether the District’s policies were successfully *implemented*, thus ensuring that the District met the required conditions.”); *id.* at 27 (“Indeed, evidence that the District is failing to identify, evaluate, determine eligibility for, and transition large numbers of students may *necessarily* reflect a failure in policies and procedures.”); *id.* at 34 (“While the District thoroughly details the policies it has enacted since 2010, the Court must also consider the *effectiveness* of these policies in achieving compliance with IDEA and D.C. law.”); *id.* at 38 (“[P]laintiffs’ statistics tend to show that the District’s policies—*whatever* they may be—have failed to ensure that eligibility determinations are timely.”) (emphases in original).

54. The Court also previously found, *see* Mem. Op. ¶¶ 60–63, ECF No. 294, and finds again, that the District has improved, and that its improvement, including reforms to the District’s Child Find-related policies, procedures, and practices, and the organization of the Early Stages Center, occurred during and because of this lawsuit. *See* accompanying Mem. Op. issued on this date, at 15–18.

55. Despite the District’s extensive testimony about the strengths of its program, *see, e.g.,* Trial Tr., Maisterra Test., Nov. 13, 2015, 15:9–10, its deficiencies have continued, although to a lesser degree. The plaintiffs have provided evidence that corresponds specifically to the alleged harms suffered by each subclass, evidence which the District has not successfully rebutted.

This evidence tends to demonstrate that despite the District's efforts, it is failing to identify preschool-age disabled children for the purposes of offering them special education and related services, failing to timely determine the eligibility of preschool-age children for special education and related services, and failing to provide a smooth and effective transition from the early intervention program under Part C of the IDEA to preschool special education and related services under Part B by the child's third birthday.

D. CHILDREN RECEIVING SPECIAL EDUCATION SERVICES

56. As described below, the District should be providing special education and related services to at least 8.5% of its preschool-age population. *See infra* paras. 59–82. The District contends that it served between 8.40% and 9.89% of that population monthly since January 2013, when it began producing monthly data. *See* District of Columbia Monthly Enrollment Reports, Defs.' Ex. 53, at 5–6 (displaying a high in Mar. 2013 of 9.89%), 45–46 (displaying a low in Nov. 2014 of 8.40%); *see also* Pls.' Ex. 285, at 1; Defs.' Proposed Findings of Fact and Conclusions of Law ¶ 101. These numbers, however, are not accurate, in large part because they are calculated using an outdated census figure. *See infra* paras. 86–95.

57. When calculating its data appropriately (e.g., using an annual population estimate rather than the 2010 census figure), the District served a high of 8.04% of its preschool-age population in March 2013, a figure which fell nearly monthly to a low of 6.27% in November 2014. *See infra* para. 84. In other words, the District failed to provide special education and related services to between 98 and 515 children, varying monthly, since 2013. *Id.* The District contends that it is screening over half of its preschool-age population. *See* Trial Tr., Beers Test., Nov. 13, 2015, 21:13–18; *see also* Defs.' Proposed Findings of Fact and Conclusions of Law ¶¶ 77–78 (describing the safeguards and procedures the city has in place to ensure that families are able to

“receive developmental screenings”). Despite these efforts, at any given time, hundreds of children are still not receiving needed special education and related services.

58. Moreover, the District reported to OSEP that it provided special education and related services to 1,429 three-to-five-year-old children for 2014-2015, which amounts to only 6.19% of the District’s preschool population. *See infra* para. 96. That is a decline of approximately 19% since 2011 and is essentially equal to the average percentage of children served nationwide. *See supra* paras. 97–98. Based on its risk factors, the District should be serving substantially more children than the national average. The District is far from meeting the 8.5% benchmark.

1. The District Should Be Serving at Least 8.5% of Its Preschool-age Population with Special Education and Related Services

59. OSEP tracks the percentage of children who receive special education and related services in each state and similar jurisdictions. 2015 *Dunst Direct* ¶ 44. The District has historically provided special education and related services to the lowest or near the lowest percentage of preschool-age children in the United States. 2015 *Dunst Direct* ¶¶ 45–46; *see infra* paras. 191–99; *see also* Mem. Op. ¶¶ 25–28, ECF No. 294. That is true despite the fact that, based on risk factors in the District, and the fact that it is the only entirely urban jurisdiction, it has the largest percentage of children who may be eligible for special education services. 2015 *Dunst Direct* ¶¶ 36–43; *see also* Mem. Op. ¶¶ 29–30, ECF No. 294. Otherwise said, the District has had the highest need for special education services, but has historically provided those services to the fewest children. 2015 *Dunst Direct* ¶ 43.

60. In 2011, the Court found that the District violated federal and District law by failing to provide Part B services to a substantial number of three-to-five-year-old children. Mem. Op. ¶¶ 111–13, ECF No. 294. The Court also found that, “on the low end, the District should expect to be serving 8.5% of its preschool-age population with Part B services.” *Id.* at ¶ 30. Accordingly,

the Court ordered the District to “ensure that at least 8.5 percent of children between the ages of three and five years old, inclusive . . . who reside in or are wards of the District of Columbia, are enrolled in special education and related services under Part B of IDEA.” *Id.* at ¶ 147.

61. At the recent trial, Dr. Dunst again explained why the District should currently be serving at least 8.5% of its preschool-age population with Part B services, a figure that is in line with the Court’s benchmark set in 2011. 2015 Dunst Direct ¶¶ 29–40; Trial Tr., Dunst Test., Nov. 12, 2015, 117:25–119:7, 128:6–19. Dr. Dunst based this figure upon evidence related to risk factors in the District, comparisons to other jurisdictions, and incidences of developmental delays nationwide. 2015 Dunst Direct ¶¶ 29–40; Trial Tr., Dunst Test., Nov. 12, 2015, 117:25–119:7, 128:6–19. He explained that the relevant risk factors in the District are high, meaning that children in the District face higher risks of experiencing developmental disabilities than the national average. 2015 Dunst Direct ¶¶ 41–42. These greater risk factors contribute to the relatively high target 8.5% enrollment rate, which is a few percentage points above the national enrollment figure. *Id.* And importantly, these risk factors have not materially changed since 2011, when the Court first found that the 8.5% enrollment benchmark was appropriate. *Id.*; *see also* U.S. Census Bureau, Small Area Income and Poverty Estimate, Under Age 5 in Poverty, Pls.’ Ex. 193, at 4 (2007, 26.1% in poverty; 2013, 26.8% in poverty); *see generally* Data Related to Risk Factors, Pls.’ Ex. 287. Looking to the specific risk factors, as of the November 2015 trial, 55% of the number of children in the District live in single parent households, *see* Pls.’ Ex. 287, at 4126, 15% live in non-English speaking households, *id.* at 4130, 14% live in households where parents have less than a high school education, *id.* at 4131, 23% of households receive assistance through the Supplemental Nutrition Assistance Program (the highest in the country), *id.* at 4132, 33% live in

concentrated poverty areas, *id.* at 4134, and 22% of families experience severe housing problems, *id.* at 4135.

62. Dr. Dunst's conclusion that the District should be serving 8.5% of its preschool population is also entirely consistent with the District's documents and Dr. Beers' testimony at the last trial, although at that time Dr. Beers suggested that the benchmark should be even higher. The Early Stages Family Care Manual states: "Given DC's risk factors for developmental delays, including low birth weight, poverty, and HIV/AIDS infection, DC's projected identification rate is about 12%." *See* Pls.' Ex. 72, at DL 204. When asked at his 2011 deposition about how the 12% figure was derived, Dr. Beers testified that it was an estimation based upon the identification rates of other urban jurisdictions, namely Atlanta and Detroit, which "range[d] between 10 to 12 percent, but [the District] picked 12 percent as an aggressive target that [it] wanted people to strive towards." Beers Dep. 61:12–62:11, Mar. 1, 2011, Pls.' Ex. 12. At the recent trial, Dr. Beers explained that he initially looked at a range of 10-12%, and then looked at a range of 8-12%:

I believe in my testimony here when we talked in 2011, we talked about a range from 10 to 12 percent. We were still at that point moving rapidly and we had gone from about 2 percent of the eligible kids to about 4 percent of eligible ki[d]s at the time we appeared in court at that time. So at that point we had also a better estimation of what we were going to get when we were screening kids and started talking about a range of 8 to 12 percent as where we thought was a reasonable place for us to get over time, recognizing that I had no data when I arrived in 2009.

Trial Tr., Nov. 13, 2015, 20:22–21:6; *see also* Mem. Op. ¶ 30, ECF No. 294.

63. Whether it is Dr. Dunst talking about 8.5%, or Dr. Beers talking about 10 to 12% (or 8 to 12%), both individuals were addressing the percentage of children who would be served. Dr. Dunst testified that the District "should expect to be serving 8.5 percent of its preschool-age population with Part B services." 2015 Dunst Direct ¶ 40. Although other language in his direct examination made it appear as though he meant this to relate just to children who are found eligible

for Part B services, he explained that he meant it as an estimate of “eligibility, enrollment, and provision of services.” Trial Tr., Dunst Test., Nov. 12, 2015, 130:15–16. Indeed, he provided extensive testimony comparing the number of children receiving special education and related services in the District with the 8.5% benchmark. 2015 Dunst Direct ¶¶ 43–88. Dr. Beers similarly explained, at the last trial, that the District’s “identification rate” relates to children receiving services. *See* Trial Tr., Apr. 6, 2011, Pls.’ Ex. 6, 175:23–176:18.

64. The 8.5% benchmark is also consistent with portions of Dr. Freund’s previous testimony. *See* Freund Dep. 57:3–7, Oct. 1, 2014, Pls.’ Ex. 22 (“[I]t certainly seems to be somewhere in the 8 percent area might be the current appropriate identification of children with disabilities preschool, given the current population.”).

65. It is also consistent with many of the District’s own documents. For example, the District’s Special Education Monitoring & Compliance Manual (IDEA Part B) from August 2014 uses 8% as the enrollment benchmark:

Child Find monitoring is a process designed to ensure that students with disabilities are being appropriately identified and served by their LEAs. Twice a year, OSSE will review the enrollment rates for students with qualifying disabilities under IDEA at each LEA. *LEAs that have special education enrollment rates of less than 8% of the total student population* will be reviewed to ensure that the LEA has proper special education referral and eligibility processes in place, and to ensure that LEA staff understand their obligation to provide special education and related services to students with disabilities.

Pls.’ Ex. 51, at 15 (emphasis added).

66. In addition, the current version of the Early Stages Manual, which is maintained online and is date stamped April 29, 2015, and includes updates as of April 2015, states: “Nationally, about 6% of three-to-five year olds are identified with developmental delays, but taking into consideration the additional risk factors in DC, including low birth weight, poverty,

and HIV/AIDS infection, the number of children who are expected to be eligible has been estimated to be between 8.5% and 10.5%.” Pls.’ Ex. 61, at DL2015 2304.

67. All of this supports the conclusion that the District must show that it is serving 8.5% of its population of three-to-five-year-old children with special education and related services. The Court emphasizes that 8.5% is the minimum that the District should be achieving. 2015 Dunst Direct ¶ 40; *see also* Mem. Op. ¶ 30, ECF No. 294.

68. The District offers several contrary arguments. First, Dr. Freund believes that the 8.5% benchmark is arbitrary. 2015 Freund Direct ¶ 11. The Court disagrees. The Court made a reasoned conclusion based upon the evidence presented at the last trial, *see* Mem. Op. ¶¶ 29–30, ECF No. 294, and the findings above, including Dr. Beers and Dr. Freund’s statements, and the District’s own documents.

69. Second, Dr. Freund believes that the District has such a strong Child Find program that a numerical benchmark is unnecessary. 2015 Freund Direct ¶ 11. This argument, however, overlooks how critical it is for any organization to have a benchmark to avoid slippage. A benchmark is not necessary just for the Court to assess compliance; it is necessary for staff to understand what must be accomplished. As described above, Dr. Beers testified that, in 2009, he identified 12% as the goal because he “was asked to set forth an aggressive metric in order to make sure that we could get quick change.” Trial Tr., Nov. 13, 2015, 20:11–14.

70. The results of the District’s program confirm the need for a benchmark. Around the time of the last trial, when the District had a goal of 10 to 12%, it had a rapid rise in its enrollment rate. Trial Tr., Beers Test., Nov. 13, 2015, 20:11–21:1. However, during 2013 and 2014, around which time the District did not have an enrollment benchmark, the District’s enrollment in special education and related services fell by approximately 15%. *See id.* at 21:24–22:4 (stating the

benchmark was abandoned); Compagnucci Dep. 32:18–33:1, June 3, 2014, Pls.’ Ex. 16 (stating no enrollment benchmark was used in 2014); Maisterra Dep. 33:21–34:10, June 2, 2014, Pls.’ Ex. 14 (same); *infra* para. 85 (showing a fall in enrollment rate).

71. It is not clear to the Court why the District abandoned its benchmark. Dr. Beers testified:

[W]e have seen that we’ve had a rapid rise in that percentage and started to see that stabilize. But we know that we also have a system where we have staff who believe we should continue to push. And even though we are in that 8 to 12 percent range, I don’t think that the staff are willing to sort of just rest on their laurels. So we have backed away from a special number and tried to use the target of really trying to make sure that we’re reaching more kids through our screening processes because that’s the way we start to make sure that we’re confident that we’re serving all the kids that need to be served.

Trial Tr., Nov. 13, 2015, 21:19–22:4. Indeed, the District discontinued its use of a benchmark even though there was not a rapid rise in the enrollment percentage, at least recently. In fact, as described below, there was a two-year drop. *See infra* para. 85. Moreover, the District is not currently in the 8 to 12% range. That conclusion is based on outdated census figures which the District does not use in other similar circumstances. *See infra* paras. 86–95. The remainder of Dr. Beers’ explanation, that he does not think that his staff would rest on their laurels, does not explain why the District would abandon a benchmark.

72. Third, Dr. Freund contends that “if the Court is inclined to ascribe compliance to a number, . . . it would be better to look for the number of children served (over 1,450 children in each month for nearly two full years) and find that this large number of children served is a sufficient one to serve a numeric proxy for programmatic compliance.” 2015 Freund Direct ¶ 11; *see also* Defs.’ Proposed Findings of Fact and Conclusions of Law ¶ 103 (“[S]ustained delivery of special education services to more than 1,450 children . . . constitutes strong evidence of compliance with the IDEA’s Child Find mandate.”). However, again, the number of preschool-

age children with IEPs in the District fell over that two-year period and then began to rise again. *See infra* para. 85. Based on the District's own measurement, 264 fewer children were receiving special education and related services in November 2014 than in March 2013, *id.*, while at the same time the population of three-to-five-year-olds in the District was rising. *See infra* para. 89. This apparent backslide, coupled with the fact that the District's three-to-five-year-old population is expected to continue to rise, *see infra* para. 90–91, demonstrates that any benchmark should reflect the *rate* of enrolled students, not the absolute number of enrolled students.

73. Relatedly, the District cites to Dr. Dunst's 2010 testimony, where he stated the "District's goal should be to serve between 600 and 1,100 preschool children in special education." Defs.' Proposed Findings of Fact and Conclusions of Law ¶ 102 (citing Trial Tr., Nov. 12, 2015, 117:2–5, 119:22–25). The District argues that this statement undercuts Dr. Dunst's testimony and supports its argument that the current absolute number of children being served shows the District is complying with the IDEA. *Id.* As plaintiffs point out, this figure of 600 to 1,100 preschool children ties to Dr. Dunst's 2009 expert report, where he wrote that "[t]he different profiles shown in Exhibit B would indicate that DCPS should be locating and serving at least 6% of the preschool population in special education, or about 1100 children." ECF No. 358-7, at 13. At the time, six percent was that national average. *Id.* at 10–11.

Dr. Dunst continued in his report:

Based on the poverty and teenage pregnancy rates in the District of Columbia, as well as the number of births, one would expect that the incidence of disability among preschoolers in the District to be greater than in most other States. In a study of the influences of poverty on the incidence of disability among preschoolers, a large percentage of birth to six year olds who lived in households at or below federal low income thresholds were more likely to have a disability than those who lived in households with higher incomes.

Id. Looking to this text, plaintiffs argue that “in 2009, before Dr. Dunst calculated the appropriate benchmark based in part on the risk factors in the District, he stated that the District should be serving at least the national average, but likely more due to risk factors in the District.” Pls.’ Proposed Findings of Fact and Conclusions of Law 26 n.12. And the Court agrees, finding Dr. Dunst’s testimony in 2015 and in 2009 is consistent.

74. Fourth, the District argues that the 8.5% is too high because that target number does not properly account for what the District called “protective factors,” that is, conditions or policies that “buffer[] children against their negative effects” of the District’s heightened risk factors, such as poverty and homeless. Defs.’ Proposed Findings of Fact and Conclusions of Law ¶ 97. For example, the District asked Dr. Dunst about how the existence of non-profits and other social organizations may reduce the number of children in need of special education and related services, *see* Trial Tr., Nov. 12, 2015, 123:17–124:9, 125:10–23, and Dr. Travis Wright testified on the District’s behalf that its non-profits contribute to a strong social safety net, *see* Trial Tr., Nov. 16, 2015, 16:24–17:14. Washington D.C.’s network of non-profits likely does indeed help to alleviate some of the negative developmental effects of risk factors like high homelessness and poverty rates, but child homelessness and poverty still exist in D.C. at staggering levels. *See supra* para. 61. In the Court’s view, the positive effects of such a non-profit network would materially affect the enrollment analysis if it decreased the incidence of the relevant risk factors. But to the extent that the non-profits do decrease rates of poverty and homelessness, etc., that decrease is already baked into Dr. Dunst’s analysis. In other words, the rates of the relevant risk factors are lower than they otherwise would be if D.C.’s network of non-profits did not exist. Therefore, Dr. Dunst’s analysis, which centers on risk factors, still incorporates much of the positive effects of protective factors.

75. Adding to the protective factors, Dr. Wright testified that the District's early childhood education programs (not specific to special education) were ranked best in the country. Trial Tr., Nov. 16, 2015, 16:24–17:14. This is of course a positive development, but the District did not analyze the specific impact that those or other programs may have on the percentage of children who should receive special education and related services. *See id.* at 20:14–17. Regardless of the aggregate impact of the protective factors, the 8.5% enrollment benchmark is conservative given the prevalence and impact of the District's risk factors. *See, e.g.*, Pls.' Ex. 287, at 4131 (showing that 23% of households in D.C. receive assistance through the Supplemental Nutrition Assistance Program—the highest in the country). Moreover, it is in line with estimates contained in internal District documents, *see supra* paras. 65–66, and with testimony provided by Dr. Beers in 2011. *See supra* para. 62. As such, the Court finds that the conservative nature of the benchmark more than accounts for any impact the protective factors may have on the analysis.

76. Fifth, the District contends that, with a benchmark, or with the wrong benchmark, there is a risk of over-identification. Defs.' Proposed Findings of Fact and Conclusions of Law ¶ 100; Trial Tr., Wright Test., Nov. 16, 2015, 18:5–15. Such over-identification could harm children who do not need special education services by placing a label on them that could potentially last “throughout their educational career.” Trial Tr., Beers Test., Nov. 13, 2015, 2:15–24. However, if a child is referred and does not qualify for services, the child should not receive services and the District staff should understand that they should not be finding children eligible for special education services when they do not qualify. That appears to be what Dr. Freund meant when she testified that “if it over-identifies through screening, the evaluation process, [will] take care of that.” Trial Tr., Nov. 16, 2015, 32:22–24.

77. The District may believe that it could not possibly meet the 8.5% benchmark, using the accurate, updated census figures, *see infra* paras. 86–95, because there are not enough children who need special education and related services, due to its improved programs or otherwise. However, in March 2013, the District almost achieved that number by serving 8.04% of its preschool-age population, as calculated using the appropriate numerator and denominator (the number subsequently fell). *See infra* para. 84. Moreover, other jurisdictions serve significantly more than 8.5% of their three-to-five-year-old population. *See* U.S. Department of Education, 36th Annual Report to Congress on the Implementation of the Individuals with Disabilities Education Act, 2014, Pls.’ Ex. 182, at 98–99 (showing that Arkansas, Kentucky, and Puerto Rico had 2012 three-to-five-year-old Child Count percentages of 10.6%, 10.3%, and 10.2%, respectively). At the moment, based on data reported to OSEP, the District is only serving 6.19% of its population, which is almost identical to the national average. *See infra* paras. 96, 98. In light of the risk factors in the District, and the fact that the District is the only entirely urban jurisdiction that reports to OSEP, it should be serving well over the national average. 2015 Dunst Direct ¶¶ 43, 88.

78. Sixth, the District argues that any benchmark should relate to children determined eligible, rather than children served, since that would comport with the identification requirement of the IDEA. *See* Defs.’ Proposed Findings of Fact and Conclusions of Law ¶¶ 93–94 (“[T]he number of preschool-age children for whom the District fulfilled its Child Find obligation (i.e., to identify, locate, and evaluate) necessarily exceeds enrollment in preschool Part B; conversely, enrollment does not directly approximate identification rates absent evidence to the contrary.”); *id.* at ¶ 95 (“Plaintiffs offered no reliable basis for determining how enrollment correlates to identification, location, or evaluation for Part B services.”). Moreover, Mr. Compagnucci testified that “enrollment is not a perfect proxy for Child Find because it fails to account for children who

were identified but whose parents did not complete the IEP or enrollment processes, which can happen for a variety of reasons.” Compagnucci Direct ¶ 19. Indeed, the District has argued previously, in the context of class certification, that plaintiffs should be measuring identification data, not enrollment data. Defs.’ Mot. to Decertify Subclass 1 4–6, ECF No. 467. However, as described above, the 8.5% benchmark relates to children who should be receiving special education and related services, not just children who should be determined eligible for such services. *See supra* para. 63.

79. Moreover, in the Court’s opinion on October 23, 2015, it stated:

[D]efendants overlook that the enrollment numbers are used to help gauge the effectiveness of the District’s efforts to locate and identify disabled children in connection with their IDEA obligations. The Court agrees with the plaintiffs that “[t]he District’s enrollment rate does not define the subclass, but is instead a way to measure the effectiveness of the District’s policies and practices to the identification of children potentially eligible for special education services.” Pls.’ Opp’n 5. Indeed, in a recent Order [444], the Court ruled that low enrollment numbers “would suggest that the District has in fact failed in its obligations to locate disabled children.” Mem. Op. 35. As they always have, plaintiffs continue to use the enrollment figures as one of many potential ways to approximate the District’s success in identifying and locating disabled children—not as a means to define the boundaries of subclass 1.

Although there is reason to believe plaintiffs’ suggestion that enrollment figures gauge the District’s effectiveness in identifying and locating children, the Court welcomes the District to submit evidence to diminish that argument. For example, defendants are free to offer evidence to counter plaintiffs’ theory by showing that enrollment figures actually do not reasonably approximate identification rates.

Mem. Op. 11–12, ECF No. 482.

80. The District did not timely submit evidence to show that enrollment figures do not reasonably approximate identification rates. *See* Order, ECF No. 498. And importantly, the District’s own manual shows that it too uses enrollment rates to measure its Child Find compliance:

Child find monitoring is a process designed to ensure that students with disabilities are being appropriately identified and served by their LEAs. Twice a year, OSSE will review the enrollment rates for students with qualifying disabilities under IDEA at each LEA.

Special Education Monitoring & Compliance Manual (IDEA Part B), Pls.’ Ex. 51, at 15.

81. Other District documents demonstrate that the District uses the terms “identification” and “enrollment” interchangeably. *See, e.g.*, Trial Tr., Compagnucci Test., Nov. 13, 2015, 33:20–36:6 (explaining that the District’s enrollment data are generally referred to as identification data); Trial Tr., Proddatur Test., Nov. 13, 2015, 45:9–46:21 (describing the “Business rule for identification,” which relates to the calculation of enrollment data); District of Columbia Monthly Enrollment Reports 53, 56, 58, 60, 62, 64, 66, 68, Pls.’ Ex. 189 (showing the District’s monthly data reports identifying children “Receiving Services Under IDEA Part B” and, from that, calculating a “Total Identification” percentage).

82. This Court previously found that 8.5% is the appropriate benchmark. That percentage is based upon Early Stages’ own manual, the testimony of Dr. Beers, and the testimony of Dr. Dunst, and aligns with the benchmarks in the District’s own documents. It is by its very nature an estimate, and is not perfect. However, there is more than sufficient evidence supporting it. As described below, this Court will issue an injunction thereon. Like the prior injunction, it may be modified if either party subsequently proves that 8.5% does not accurately represent the percentage of 3-5-year-olds that should be receiving special education and related services. *See* ¶ 20, ECF No. 295.

2. The District Is Failing to Serve Large Numbers of Children with Special Education and Related Services

a. The District has failed to provide special education and related services to large numbers

83. Dividing the number of three-to-five-year-old children whom the District reports have an IEP (or an extended IFSP), by the annual census estimate, yields an average enrollment of 7.57% in 2013 (when the District began producing monthly enrollment data), 6.54% in 2014, and 6.90% in 2015. *See* Pls.’ Ex. 285, at 1. There was a maximum enrollment of 8.21% of children, and minimum of 6.40%, since 2013. *See id.*

84. Based on the parties’ sampling and data agreements,³ the District’s enrollment totals should be reduced by 2% to account for children who are not receiving special education and related services. *See* Pls.’ Post-Trial Proposed Findings of Fact and Conclusions of Law Regarding Individual Children 5-6, ECF No. 514-2 (showing that two children identified as enrolled in the District’s 100-child sample had not actually received services). Doing so, the District reached, since 2013, a high of 8.04% ($(1,742 \times 0.98)/21,221$, Mar. 2013) and a subsequent low of 6.27% ($(1,478 \times 0.98)/23,094$, Nov. 2014). *See* Pls.’ Ex. 285, at 1. Based on the requirement of serving 8.5% of children, these figures indicate that, on a monthly basis, the District failed to serve between 98 ($(21,221 \times 0.085) - (21,221 \times 0.0804)$) and 515 ($(23,094 \times 0.085) - (23,094 \times 0.0627)$) children. *See id.* As this Court previously explained, such data “would suggest that the

³ During discovery, the parties agreed that plaintiffs would have access to three random 100-child samples (100 children whom the District identified as enrolled, 100 children whom the District identified as having timely received eligibility determinations, and 100 children whom the District identified as being smoothly and effectively transitioned from Part C to Part B services) and that the 100-child samples are sufficiently large so that errors in the District’s categorization of children within each sample would apply to the entire population from which the sample was chosen. E-mails among counsel regarding sampling methodologies. Pls.’ Ex. 130, 135.

District has in fact failed in its obligation to locate disabled children.” Mem. Op. 35, ECF No. 444.

b. The number of children who the District reported as enrolled fell in 2013 and 2014

85. The number of preschool-age children with IEPs, as reported by the District, declined for nearly two years and only recently began to rise again. Pls.’ Ex. 285, at 1–2. In March 2013, the District hit a high of 1,742 children with IEPs. *Id.* After that time, the number fell by 264 to a low of 1,478 children in November 2014. *Id.* That is a decline of over 15%. There is no explanation for this decline. Since that low point, the number of children reported by the District as “enrolled” in Part B services has risen by 138 children, or about 9%. *Id.* at 1.

c. The district uses outdated census figures

86. To calculate the percentage of children enrolled in special education and related services, the number of children ages three to five, inclusive, receiving special education and related services is divided by the population of three-to-five-year-old children in the District.

87. For every period from 2013 to the present, the District has calculated its enrollment percentage using, for the denominator, the population from the 2010 decennial census. Proddutur Direct ¶ 4 (“Divide that number [of children with a current eligibility determination or IEP] by the population of three-to-five year olds in the District according to the decennial census.”); District of Columbia Monthly Enrollment Reports, Pls.’ Ex. 189 (showing that the denominator each month is 17,605, the 2010 census number, from 2013 through 2015).

88. The Census Bureau prepares annual population estimates, which adjust the Bureau’s decennial census to account for birth, death, and migration rates over the intervening year. *See, e.g.*, District of Columbia State Data Center Fact Sheet, 2012 DC Population Estimates, Pls.’ Ex. 197, at 1. It is appropriate to use the U.S. Census Bureau’s annual estimates of the

District's population instead of using the 2010 decennial census figure to calculate the enrollment rate. 2015 Dunst Direct ¶¶ 71–73; Trial Tr., Cupingood Test., Nov. 12, 2015, 45:13–46:1 (stating the 2013 census estimate is more accurate for 2013 than the 2010 decennial census number).

89. The District has artificially inflated its enrollment percentages by relying on the 2010 census figures because the District's population of three-to-five-year-old children had risen substantially over the last five years: 2010, 17,605 (6,267 three-year-olds, 5,795 four-year-olds, and 5,543 five-year-olds); 2011, 18,905; 2012, 19,799; 2013, 21,221; 2014, 23,094. 2015 Dunst Direct ¶ 73; U.S. Census Bureau 2014 Population Estimates, District of Columbia, Pls.' Ex. 196, at 1, 4, 7, 10.

90. These numbers are likely to continue to rise. 2015 Dunst Direct ¶ 73. In the 2014 census estimate, the number of children ages zero, one, and two total 26,485, which is over 3,000 children more than the three-to-five-year-old estimate. *See* U.S. Census Bureau, 2014 Population Estimates, District of Columbia, Pls.' Ex. 196, at 10; 2015 Dunst Direct ¶ 73.

91. This substantial growth is mirrored by the District's projections for enrollment in school, which it uses for budgetary purposes. The projected enrollment rate for children in prekindergarten 3, prekindergarten 4, and kindergarten (or, as described with regard to charter schools, pre-school, pre-kindergarten, and kindergarten) for 2012 (the budget for which issued in 2011) was 16,814 (9,524 for DCPS and 7,290 for charter schools). District of Columbia FY2012 Proposed Budget and Financial Plan, vol. 3, Pls.' Ex. 190, at D-19, D-52. The corresponding projected enrollment rate for 2016 is 19,549 (10,142 for DCPS and 9,407 for charter schools). District of Columbia FY2016 Proposed Budget and Financial Plan, vol. 3, Pls.' Ex. 191, at E-1, D-77.

92. If the District were to continue to use the 2010 census figure until 2020, then due to continuously rising population, there would be a dramatic—but entirely artificial—decline in the enrollment rate in 2020. 2015 Dunst Direct ¶ 74.

93. Therefore, is not surprising that the Census Bureau’s annual population estimates are required for purposes of grant determinations under the IDEA and are used by OSEP, OSSE, other District agencies and other states, for analysis of data related to these and other issues outside of this litigation. More specifically, the IDEA states that, “[f]or purposes of making grants, the Secretary [of Education] shall use the most recent population data, including data on children living in poverty, that are available and satisfactory to the Secretary.” 20 U.S.C. § 1411(d)(3)(A)(ii). Additionally, the annual population estimate is used by OSEP for its annual Child Count. Department of Education. *See* 36th Annual Report to Congress on the Implementation of the Individuals with Disabilities Act, 2014, Pls.’ Ex. 182, at 6 (“In this report [which catalogs Child Count data], annual resident population estimates for the 50 states and the District of Columbia were used to determine the percentages of the resident population served under IDEA, Part C and Part B, and to develop comparisons and conduct data analyses.”); *id.* at 98–99 (“Percentage for each state was calculated by dividing the number of children ages 3 through 5 served under *IDEA*, Part B, by the state in the year by the estimated U.S. resident population ages 3 through 5 in the state for that year, then multiplying the result by 100.”); 2015 Dunst Direct ¶ 71.

94. The District uses the U.S. Census Bureau’s annual population estimate to report data related to the percent of children receiving Part C services. The District is required to report to OSEP the “Percent of infants and toddlers birth to 3 with IFSPs compared to national data.” FFY 2013 Part C State Performance Plan (“SPP”)/Annual Performance Report (“APR”), Pls.’ Ex.

241, at DL2015 3695. To calculate that percentage, the District used as its denominator what it referred to as the “U.S. Census Annual State Resident Population Estimates April 1, 2010 to July 1, 2013,” which it identified as 26,517 children. *Id.* That was the Census Bureau’s annual population estimate for children up to age 3 for 2013 as of the time of the District’s publication. *See* U.S. Census Bureau, 2013 Population Estimates, District of Columbia, Pls.’ Ex. 195, at 7 (totaling 9,111, 8,680, and 8,726 for zero-to-two-year-olds, inclusive).

95. The annual estimate is also used by numerous state and federal agencies, including the District’s own agencies, for numerous policy purposes. *See, e.g.*, District of Columbia State Data Center Fact Sheet, 2012 DC Population Estimates, Pls.’ Ex. 197, at 1 (“The U.S. Census Bureau’s Population Estimates Program (PEP) produces estimates . . . [which] are used in federal funding allocations, as survey controls, as denominators for vital rates and per capita time series, and as indicators of recent demographic changes.”).

d. The District’s Child Count percentage is also falling

96. Every year, the District and the states are required to provide OSEP with “Child Count” data, which is the number of children in that jurisdiction receiving special education and related services. 2015 *Dunst Direct* ¶ 44; 34 C.F.R. 300.641(a) (“report the number of children with disabilities receiving special education and related services”); 34 C.F.R. 300.644 (“report children with disabilities who are enrolled in a school or program . . . that—(a) Provides them with both special education and related services”); OSEP ED Facts Submission System ages 3-5, Pls.’ Ex. 183, at 6 (“Include all children with disabilities (IDEA) who are ages 3 through 5 receiving special education and related services according to an individual education program or services plan on the count date.”). Enrollment should be measured in this case too by the receipt of the prescribed special education and related services.

OSEP compares the District's and states' Child Count data to the U.S. Census Bureau's annual population estimates for each jurisdiction to determine the percentage of preschool-age children enrolled in Part B services. This Court relied upon those percentages in prior years when it concluded that the District failed to provide special education and related services to sufficient numbers of children. Mem. Op. & Findings of Fact and Conclusions of Law ¶¶ 23–32, ECF No. 294. The District's Child Count percentages for 3-5-year-olds are 7.6% for 2011-2012, 7.9% for 2012-2013, and 6.8% for 2013-2014. OSEP Part B Data Display 2015, Pls.' Ex. 248, at 1. OSEP has not yet produced its report that identifies the Child Count percentages for the 2014-2015 school year. 2015 Dunst Direct ¶ 61. However, for that year, the District reported to OSEP that it provided IEP's to 1,429 children (237 3-year-olds, 511 4-year-olds, and 681 5-year-olds), which is only 6.19% of the 2014 population of 3-5-year-olds. 2014 Child Count Report, Pls. Ex. 292, at DL2015 5960; 2015 Dunst Direct ¶ 61.

97. That is a decline of approximately 19% from 2011 to 2014. The District has claimed that these OSEP data show lower service rates than the rates produced to plaintiffs in this litigation because OSEP does not permit OSSE to include in the count children for whom the District lacks certain information, such as a description of the educational environment in which the child receives services. Maisterra Dep. 348:1–9, 349:17–20, 350:1–4, July 2, 2014, Pls.' Ex. 18. The educational environment is where the child is receiving services. OSSE 2014 Enrollment Audit Manual Supplement: Child Count Guide, Sept. 22, 2014, Pls.' Ex. 188, at 10; 2015 Dunst Direct, ECF No. ¶ 83. The District would not have this information if the child had not begun receiving services. However, if the child had begun receiving services and the District still lacked that or other required information, that demonstrates a significant problem with the District's data management. *Id.*

98. As described above, the Child Count rate is now 6.19%. *See supra* para. 96. That is essentially equal to the most recent national average for 3-5-year-olds, which is 6.2%. OSEP Data Display: District of Columbia, Identification of Children with Disabilities, 2015, Pls.’ Ex. 248, at 1; *see also* 2015 Dunst Direct ¶ 88. It should be much higher given the risk factors in the District. *See supra* para. 61. It also should be rising, not falling. This means that many children are not receiving needed special education and related services.

E. TIMELY ELIGIBILITY DETERMINATIONS

1. Background

99. 34 C.F.R. § 300.301(c)(1) states that an initial evaluation “[m]ust be conducted within 60 days of receiving parental consent for the evaluation” or within a state-established timeframe. District law provides 120 days after a child is referred to issue a determination as to whether the child is eligible for special education and related services. *See infra* para. 255.

100. The District’s 120-day timeframe still appears to be the longest period of time in the country. 2015 Dunst Direct ¶ 89. In only five states does the timeframe exceed 60 days. *Id.*

101. In 2017, the time period may be shortened to 60 days, with an additional 30 days to obtain parental consent for the evaluation. The District recently amended its code as follows:

Beginning July 1, 2017, or upon funding, whichever occurs later, an LEA shall assess or evaluate a student who may have a disability and who may require special education services within 60 days from the date that the student’s parent or guardian provides consent for the evaluation or assessment. The LEA shall make reasonable efforts to obtain parental consent within 30 days from the date the student is referred for an assessment or evaluation.

D.C. Code § 38-2561.02(a)(2)(A).

102. Historically, the District has exceeded the 120-day limit for a substantial number of children. *See* 2015 Dunst Direct ¶¶ 110–14; *infra* paras. 200–02, 205–07; *see also* Mem. Op. ¶¶ 33–40, ECF No. 294. Because early intervention is critical in the development of a child with

early signs of educational disabilities, the District's persistent delays beyond the 120-day limit presents a critical problem. *See supra* p. 2.

103. Based upon evidence presented at the 2011 trial, the Court concluded that the District shall “ensure that at least 95 percent of all preschool children referred for Part B services receive a timely eligibility determination.” Mem. Op. ¶ 149, ECF No. 294. Presumably with that benchmark in mind, the District contends that over 97% of preschool-age children receive timely eligibility determinations. *See* Defs.’ Proposed Findings of Fact and Conclusions of Law ¶ 109. However, calculated appropriately, the number falls substantially. *See infra* para. 116. Dr. Cupingood’s calculations show that approximately 20 percent of preschool-age children are not receiving timely eligibility determinations. *Id.*

2. The District Is Not Starting the 120-day Period at the Time That a Child Is Referred by a Non-parent

104. The District does not start the 120-day period at the time that a child is referred by a non-parent—it only starts the clock when a child is referred by a parent. Trial Tr., Compagnucci Test., Nov. 13, 2015, 36:7–37:14. Mr. Compagnucci explained that Early Stages treats a referral from a parent as a referral for special education (and therefore it starts the 120-day clock), but treats a referral from a non-parent as a referral to Early Stages (and therefore it does not start the 120-day clock). *See* Compagnucci Dep. 111:9–18, June 3, 2014, Pls.’ Ex. 16 (“[Q] What’s the difference between a referral to special education and a referral to your program? [A]: A referral to special education is defined under OSSE policy in DCMR. A referral to Early Stages is defined by us. And what we mean when we say a referral to Early Stages is that somebody who is not the parent has reached out to us to express a concern about a child.”); *id.* at 116:10–117:12 (“[W]e don’t believe that a pediatrician sending over in whatever form they might send it, that this is a child about whom they have concern is a referral to special education.”). By instituting this policy,

the District is effectively giving itself even more than the 120 days to complete the eligibility determination when the referral comes from a non-parent, such as a pediatrician.

105. The District explained that the clock should not start at the time of a non-parent referral because parents “were upset that a special ed referral had been initiated without their knowledge or awareness” and “it seemed inappropriate to initiate that referral without the parents’ awareness.” Defs.’ Proposed Findings of Fact and Conclusions of Law 36 n.5; Compagnucci Direct ¶¶ 23, 25; Compagnucci Test., Trial Tr., Nov. 13, 2015, 37:2-11. Of course, the District should keep parents informed and protect parents and children’s privacy, but it is hard to understand how this concern should cause the District to wait to start the clock on the 120-day period. In fact, the District explicitly states, in a guide to families, that the special education process starts upon referral from a pediatrician. DCPS Office of Specialized Instruction, Programs & Resources Guide for Families, 2014-2015, Pls.’ Ex. 78, at DL2015 471 (“The special education process starts once a teacher, parent, psychologist, other school staff member or third party (such as a day care center or physician) submits a referral for a student.”). Moreover, the actual start of the clock would not negatively affect parents. If anything, it helps ensure that the child timely receives services. The only advantage the Court sees of not starting the clock is to give the District additional time for an eligibility determination. As the Court points out, if there is any delay in the responsiveness by the parent, it can be addressed by the parental delay policy. *See infra* paras. 157–61.

106. The District contends that requiring it to start the 120-day clock upon the date of the initial referral by a non-parent amounts to changing the rules mid-game. Trial Tr., Nov. 16, 2015, 71:1–8. The Court disagrees. This issue was previously litigated in this case. In 2010, the

District strongly disputed plaintiffs' allegation that the District was not starting the 120-day clock at the time of referral by a non-parent:

Just as egregious is Plaintiffs' complete disregard of voluminous evidence concerning the District's current performance of its Child Find and FAPE obligations under the IDEA, in order to assert as "undisputed facts" practices that Plaintiffs well know were abandoned long ago. . . . Plaintiffs assert that "[t]he percentage of preschool-age children receiving an untimely eligibility determination (*i.e.*, more than 120 days after referral) would be greater if defendants used the date that a primary referral source[] makes a referral as the 'referral date.'" . . . Yet, as Plaintiffs are aware, as a matter of current practice "[t]he Early Stages Center considers a referral to be the first time any information is received about a child"—that is, the date on which a referral is received from a primary referral source is in fact treated as the referral date.

Defs.' Mem. in Opp'n to Pls.' Partial Mot. for Summ. J. 10, ECF No. 180.

107. Moreover, in 2011, in response to a question from the District's counsel, Dr. Maisterra testified that the District started the 120-day clock at the time of a written referral by anyone. Maisterra Dep. 153:9–11, Feb. 28, 2011, Pls.' Ex. 11 (“[Q] Just to clarify, so a written referral from anyone starts the 120 days? [A] Yes.”). Therefore, plaintiffs' argument is not new. It comports with the District's representations as to its policy prior to the last trial.

108. Plaintiffs' argument is also consistent with the Court's decision after the last trial, which defined “[d]ate of referral” as “the date on which defendants receive a written or oral request for assessment of a preschool child including the child's name and age, the parent's or guardian's name, mailing address or telephone number, and the basis for referral.” Mem. Op. ¶ 149(b), ECF No. 294. This definition is not restricted to referrals by parents. Among other things, the decision required the District to attempt “to contact the parent or guardian of a referred child, and, upon obtaining consent of the parent or guardian, provide feedback to the referral source regarding the outcome of the referral in a timely manner.” *Id.* at ¶ 155.

109. The flaw in the District's calculation is also not remedied by the District's policy that Early Stages staff must attempt to contact the parent within 48 hours of a referral by a nonparent. *See* Compagnucci Dep. 65:15–22, June 2, 2014, Pls.' Ex. 15. Approximately one third of the time, the District fails to comply with that policy. 2015 Cupingood Direct ¶ 76. The District explained its apparent failure to comply with that policy by stating that it may be due to failure to document properly attempts at communication or "variation in staff performance in reaching out to families in a timely manner." E-mail from District's Counsel to Plaintiffs' Counsel, May 27, 2014, Pls.' Ex. 136, attachment p. 2.

110. The flaw in the District's calculation is also not remedied by its contention that screenings are completed within 7 days of a referral 85% of the time. Compagnucci Direct ¶ 24. Regardless of the dates of screenings, as described below, *see infra* para. 115, the District is failing to provide timely eligibility determinations to anywhere near to 95% of children and there are substantial delays in even scheduling evaluations.

3. The District Is Failing to Provide Timely Eligibility Determination to Large Numbers of Children

111. The District does not keep its data in a format that allows for easy correction of the errors described above. Some of the data are in the Early Stages database, some are in the SEDS database, and it is not always possible to reconcile the databases. *See* 2015 Cupingood Direct ¶¶ 31–32. However, as described below, plaintiffs' statistical expert, Dr. Cupingood, presented reliable evidence to show that the timeliness of the District's eligibility determinations falls substantially from the 97% that the District claims. *See* Defs.' Proposed Findings of Fact and Conclusions of Law ¶ 109 (arguing that the District achieved 97.06% from December 1, 2012 to November 30, 2013); *see also infra* paras. 112–16 (detailing the analysis that underpins the District's more accurate rate of approximately 80%). When the 120-day clock begins at the time

of referral by a parent or non-parent, and other appropriate corrections are made to the District's data, the percentage of timely eligibility determinations falls substantially, to a rate closer to 80%.⁴

112. Dr. Cupingood started with the children who the District reported were referred for special education and related services. SEDS tracks the date of referral by a parent, not the date of referral by a non-parent. E-mail from District's Counsel to Plaintiffs' Counsel, Apr. 29, 2014, Pls.' Ex. 133, at 5. The date of referral by a non-parent is tracked in the Early Stages database. *Id.* at 4. In order to determine which children were referred by a non-parent prior to the parental referral, Dr. Cupingood had to match the children in the two databases. 2015 Cupingood Direct ¶¶ 31, 50. However, the version of the Early Stages database that the District produced lacked identification numbers for many children which were necessary to match them. Dr. Cupingood excluded those children who could not be matched. *See id.* at ¶ 50.

113. Dr. Cupingood also excluded the children who were transitioning from Part C services, for whom the relevant deadline is the child's third birthday. *Id.* at ¶¶ 32, 39, 52; *see infra* para. 120.

114. Dr. Cupingood also excluded the children who received a parent consent denial or referral discontinuation prior to the 120-day deadline, and therefore did not receive a timely or untimely determination. 2015 Cupingood Direct ¶ 55. The District also subsequently revised its calculation methods to do the same. OSSE IDEA Part B Special Conditions Progress Report #2, Nov. 3, 2014, revised Nov. 26, 2014, Pls.' Ex. 296, at 4.

⁴ Dr. Cupingood's calculation relates to the period from December 1, 2012, to November 30, 2013. 2015 Cupingood Direct ¶ 38. The parties agreed that such statistics should essentially be treated as current for purposes of the Court's decision. Parties' Data Agreement, Pls.' Ex. 294.

115. For the remaining children, Dr. Cupingood compared the date of the initial referral from the parent or non-parent, with the eligibility date, to determine the percentage of children who received an eligibility determination within 120 days. 2015 Cupingood Direct ¶¶ 56–61. However, where the information in the Early Stages database suggested that the child’s case was closed and then the child was referred again, Dr. Cupingood conservatively used the later referral date in SEDS as the measure for the start of the 120-day period. *Id.* at ¶ 56. Where the information in the Early Stages database identified a date of first case opening after the referral date in SEDS (which referral date the District uses), Dr. Cupingood used the referral date in SEDS. *Id.* at ¶ 57.

116. In conducting this analysis, Dr. Cupingood found that approximately 20% of children did not receive a timely eligibility determination within the 120-day timeline. *Id.* at ¶ 61. That is well above the District’s 3% untimely calculation and four times as many untimely eligibility determinations as are permitted under the Court’s prior decision. *See supra* para. 103.

117. Moreover, during the 2011 trial, Dr. Beers testified that the District was working toward reducing the time for eligibility determinations to 60 days, rather than 120 days. 2011 Beers Direct ¶ 47, Pls.’ Ex. 1 (“The 60 day period is a standard that is higher than what is required by OSSE, but we determined that we have the desire to have that more aggressive timeline as our internal standard.”); Beers Dep. 48:22–49:11, Mar. 1, 2011, Pls.’ Ex. 12 (“Young children need to get into services as efficiently and effectively as possible, so the shorter time period that we can utilize, the better, and so I’m having staff feel as though there is some pressure to move forward effectively with families is important for us to have them reach towards.”). The Early Stages’ Strategic Plan in 2009 called for an “increase [in] the percentage of evaluations completed within the 60-day period to 95% by September 2012.” Pls.’ Ex. 66, at

DL2 1967. Dr. Maisterra also testified in 2011 that 120 days was too long for a child to wait for an eligibility determination. *See* Maisterra Dep. 158:7–15, Feb. 28, 2011, Pls.’ Ex. 11 (“Q. Does OSSE believe that 120 days is an appropriate amount of time for a preschool-age-child to wait for an eligibility determination? A. I would say no. Q. Why not? A. I think that, generally speaking, we feel that 120 days is a long time and, as I said earlier and we’ve discussed before, we’re looking at that as an area of review and consideration.”).

118. The District has revised its code to reduce, as of July 1, 2017 or upon funding, whichever occurs later, the time period in which an LEA must complete an initial evaluation to 60 days from parental consent. *See supra* para. 101. The District’s Chief Financial Officer determined that Early Stages would need 22 new staff members to comply with that new timeframe once it takes effect. Office of the Chief Financial Officer, Fiscal Impact Statement—Enhanced Special Education Services Act of 2014, Sept. 15, 2014, Pls.’ Ex. 272, at 5.

119. As described above, the District is not meeting the 120-day deadline for many children. *See supra* para. 165. Since 60 days is the timeline the District is striving for, *see supra* para. 117, and the timeline that 45 states already employ, *see* Dunst Direct ¶ 89, the District should at least be able to reliably offer eligibility determinations in twice that time. But it is failing to do so.

F. TRANSITION FROM PART C TO PART B SERVICES

120. The District is required to provide children who receive Part C services with a “smooth and effective” transition to Part B services by that child’s third birthday. *See infra* paras. 265–66. A transition is smooth and effective if (1) the transition begins no less than 90 days prior to the child’s third birthday; (2) the child is provided with an IEP listing both the type of placement and the specific location for services by the child’s third birthday; (3) there is no

disruption in services between Part C and Part B services; and (4) Part B personnel are involved in the transition process. *See* Mem. Op. 25, ECF No. 389; 2015 Dunst Direct ¶ 18.

121. Historically, the District has failed to provide a smooth and effective transition to large numbers of children. *See* 2015 Dunst Direct ¶¶ 124–28; Mem. Op. 12–13, ECF No. 444; Mem. Op. ¶¶ 41–45, ECF No. 294; *infra* paras. 208–15.

122. Based upon evidence presented at the 2011 trial, the Court concluded that the District shall “ensure that at least 95 percent of all Part C graduates that are found eligible for Part B receive a smooth and effective transition by their third birthdays.” Mem. Op. ¶ 150, ECF No. 294. The District claims that it is exceeding that benchmark. *See* Defs.’ Proposed Findings of Fact and Conclusions of Law ¶ 119 (presenting a rate of 96% in 2012-2013 and 98.71% in 2013-2014). However, the District’s statistics are inaccurate, in large part because it is not actually assessing when children start receiving their special education and related services. *See infra* paras. 123–36. When corrected, the data show that almost 30 percent of children are not receiving smooth and effective transitions. *See infra* para. 140.

1. The District Is Incorrectly Counting Children as Receiving a Smooth and Effective Transition Even If They Do Not Receive Services by Their Third Birthday and They Therefore Experience a Disruption in Services

a. All services must commence by the child’s third birthday

123. The purpose of the smooth and effective transition requirement is to ensure that children do not experience a disruption in services. 2015 Dunst Direct ¶ 17; *see also* Mem. Op. ¶ 162, ECF No. 294 (“Defendants shall accept all children exiting Part C who have identified disabilities or significant developmental delays as presumptively eligible for Part B in order to ensure that they do not experience a disruption in services.”).

124. Accordingly, services must commence by the child’s third birthday. *See* 20 U.S.C. § 1412(a)(9) (“By the third birthday of such a [transitioning] child, an individualized

education program or . . . an individualized family service plan, has been developed and is being implemented for the child.”); 34 C.F.R. § 300.101(b) (“(1) Each State must ensure that—
(i) The obligation to make FAPE available to each eligible child residing in the State begins no later than the child’s third birthday; and (ii) An IEP or an IFSP is in effect for the child by that date, in accordance with § 300.323(b).”); 2015 Dunst Direct ¶ 18; *see also* Mem. Op. 39, ECF No. 444 (“*All* services must commence for a transition to be smooth and effective.” (emphasis in original)).

125. The District’s representatives have testified to this requirement, and it is pervasive in the District’s documents. Maisterra Dep. 56:20-57:1, June 2, 2014, Pls.’ Ex. 14 (“Q. Does that mean that services are supposed to begin by the third birthday? A. Yes, for children transitioning from Part C to Part B.”); *id.* at 170:10–16 (“Q. If the parent hasn’t agreed to a delay in implementation of the IEP, then the services have to be provided as early as the third birthday; right? A. Right. Q. I should have said that they have to be provided by the third birthday; right? A. Yes, by or on. . . .”); Maisterra Dep. 26:19–27:3, Feb. 28, 2011, Pls.’ Ex. 11 (“Q. And that child would be treated as a transition child, not as a Child Find child for that LEA? A. Yes. Q. So the timeline for ensuring that services are in place by age three would apply to that child? A. Yes.”); Compagnucci Dep. 77:4–12, June 2, 2014, Pls.’ Ex. 15 (“A. The child has a right to services implemented on their third birthday. . . . Q. You and I will agree that that’s true. Certainly we will, as the plaintiffs, will agree that that is true. [District’s counsel]: The defendants will agree to that too.”); OSSE Early Child Transition Policy, Mar. 2, 2010, Pls.’ Ex. 42, at 7 (“Implementation of the IEP. The obligation to make a free appropriate public education (FAPE) available to each eligible child begins no later than the child’s third birthday; and an IEP must be in effect for the child by that date.”); *id.* at 8–9 (“Each LEA must

collect and report to the OSSE accurate, reliable and timely data [including] . . . [n]umber of days after age three that services begin and/or the reasons for delay, including parental refusal.”); OSSE Early Childhood Transition Guidelines, Feb. 2011, Pls.’ Ex. 46, at DL2014 109 (“If your child is eligible for services, the LEA is responsible for developing an IEP (Individualized Education Program) with your input by your child’s 3rd birthday and for implementing services upon enrollment in school at age three.”); *id.* at DL2014 120 (“If eligible, services shall begin on the child’s 3rd birthday.”); OSSE Division of Specialized Education, Office of Quality Assurance & Monitoring, Glossary, Pls.’ Ex. 51, at 1 (“Early Childhood Transition: All children exiting Part C who received timely transition planning to support the child’s transition to preschool and other appropriate community and receive services by their third birthday.”); Early Stages Transition Handout, Oct. 19, 2012 Pls.’ Ex. 74 (describing what must occur “[b]y the child’s 3rd birthday: . . . If your child is eligible for special education and you choose DCPS, your child must be receiving DCPS services”); Early Stages Transition Training, Pls.’ Ex. 59, at DL2014 1492 (“Eligibility and Location of Service offer needed prior to 3rd birthday. Child has legal right to get services on their 3rd birthday.”).

b. The District’s practice is to ensure that a child receives an IEP and location assignment by the third birthday

126. Despite these representations, the District defines transition, for the purposes of its statistical reporting, as merely having an IEP and a classroom assignment by the third birthday, not as having services begin by the third birthday. Maisterra Dep. 173:18–21, 182:9–19, June 2, 2014, Pls.’ Ex. 14 (“Q. In those instances, however, where it doesn’t work quite like that, and that although by the third birthday there’s an assignment to a school and a particular kind of services, but there’s some delay in the services, those children are still counted as having

been timely by their third birthday; right? . . . A. They are timely based on the current calculation, correct.”); Proddatur Dep. 197:7–16, July 2, 2014, Pls.’ Ex. 18. Therefore, in purporting to provide statistics regarding “smooth and effective transitions,” the District does not consider whether there is a disruption in services. *Id.* at 232:2–14. Therefore, it is not surprising that, as described below, many children experience disruptions in services.

c. The District does not track whether services begin by the child’s third birthday

127. OSSE’s Early Childhood Transition Policy requires that “[e]ach LEA . . . collect and report to the OSSE accurate, reliable and timely data [including] . . . [the] [n]umber of days after age three that services begin and/or the reasons for delay, including parental refusal.” Pls.’ Ex. 42, at 8–9. Despite this policy, OSSE does not require LEAs to maintain records of when special education services (as opposed to related services) begin, and therefore cannot and does not report delays in the start of those special education services. Johnson Dep. 17:5–20:6, 22:4–17, July 2, 2014, Pls.’ Ex. 18. Individual SEDS files include quarterly progress reports may show that special education services were provided over a particular quarter, but these reports do not reliably state when those services began. *See, e.g.*, Pls.’ Ex. 112, at 1. Also, individual SEDS files are supposed to include records (service trackers/reports) related to days when related services are provided, but those records do not compare the documented sessions to the date on which the services were supposed to begin and therefore do not track delays in the start of services or the reasons for such delays. *See, e.g.*, Pls.’ Ex. 303 (providing examples of service reports); Report of the Monitor for the 2011-2012 School Year, Dec. 10, 2012, Pls.’ Ex. 264, at 46-47 (“The Service Trackers did not seem to be providing a good system for monitoring delivery of services or missed services. The Service Trackers seem intended primarily as a way to document delivery of services for billing purposes. The Trackers do not

state the frequency or details of the service required in the IEP. . . . Time periods covered for the trackers vary . . . , and there are many with overlapping dates, gaps, etc.”).

d. The District argues that only special education services and not related services need to begin by the child’s third birthday

128. The District moved for reconsideration of the Court’s decision that “*All* services must commence for a transition to be smooth and effective.” Defs.’ Mot. for Recons. 1, ECF No. 468 (citing Mem. Op. 39, ECF No. 444) (emphasis in original). In that motion, the District argues that related services do not need to be provided by the third birthday, but rather, “as soon as possible” after the third birthday. Mem. of Points and Authorities in Supp. of Defs.’ Mot. for Recons. 7-8, ECF No. 468; Reply in Further Supp. of Defs.’ Mot. for Recons. 4-5. ECF No. 473; *id.* at 3 n.1 (stating that District’s request is “appropriately viewed as one for providing related services to transitioning children with appropriate flexibility to best serve the child’s individual needs”). As stated, the Court granted the District’s motion and ruled that “the appropriate standard for implementation of an IEP shall be determined post-trial.” Order 1, ECF No. 480. Plaintiffs’ opposition to the District’s motion [470] addresses the flaws in the District’s argument. Indeed, the “as soon as possible” language comes from a regulation which is inapplicable in this context because it is subject to the more specific requirement that the IEP be implemented by the third birthday. *See* Opp’n to Defs.’ Mot. for Recons. 10–12, ECF No. 470; Reply in Further Supp. of Defs.’ Mot. for Recons. 4, ECF No. 473.

129. No evidence was presented at trial that causes this Court to deviate from its conclusion that all services must begin by the third birthday of a child transitioning from Part C to Part B services.

130. The District suggested at trial and argued in post-trial filings that if an IEP provides for a related service to occur once a month, the service can occur any time over that month, and

therefore the related service need not start by the child's third birthday. Defs.' Proposed Findings of Fact and Conclusions of Law ¶ 123 (arguing that a definition of "smooth and effective" that requires all services to be delivered by the child's third birthday is "unworkable and thus inappropriate"); Trial Tr., Nov. 12, 2015, 99:5–12 (District's counsel: "In a number of those cases the child's IEP date—let's say it takes effect on May 1st, and it contains an educational piece and then a related service. The related service is provided once—it's provided, according to the IEP, it's supposed to happen once a month. Does it violate the IDEA if that related service occurs on the 16th of that month?"); Trial Tr., Nov. 16, 2015, 74:17–20 (District's counsel: "[P]laintiffs' arbitrary rules . . . exist almost exclusively around when a related service is to be provided once a month . . ."). That argument fails for numerous reasons, as detailed below.

131. First, broadly speaking, the District's position amounts to an argument that special education services, but not related services, must start by the child's third birthday. However, as already mentioned, *see supra* para. 125, there are numerous District documents that state that services must begin by the third birthday, and none of them add a caveat to distinguish special education services from related services. The District contends that "[t]his argument is a red herring [because] [t]he quoted materials and deposition testimony do not distinguish between educational and related services under IDEA . . . and represent nothing more than generalized statements regarding Part C to Part B transition." Reply in Further Supp. of Defs.' Mot. for Recons. 5, ECF No. 473. Contrary to this argument, Dr. Freund has testified that implementation of an IEP means "[t]he child was placed in whatever related, if any, services were being provided." Freund Dep. 142:7–18, Oct. 1, 2014, Pls.' Ex. 22. Moreover, there is nothing in the law that says that special education services must be implemented by the third birthday, but that related services do not. The IEP must be implemented by the third birthday and related services

are part of the IEP. When the District tells parents that “If eligible, services shall begin on the child’s 3rd birthday,” *see* OSSE Early Childhood Transition Guidelines, Pls.’ Ex. 46, at DL2014 109, 120, there is no reason that a parent should interpret the District’s statement to apply to special education services, but not the related services necessary to benefit from those educational services. Indeed, related services are services “as may be required to assist a child with a disability to benefit from special education.” 20 U.S.C. § 1401(26)(A); *see also* Family Care Manual, Pls.’ Ex. 72, at DL2014 194 (stating Part B “[o]nly provides nursing or medical care services [*i.e.*, related services] that are considered necessary for the child to access educational programs”).

132. Second, the District looks to the “present continuous tense” of 20 U.S.C. § 1412(a)(0) and 34 C.F.R. § 300.124(b), which state that a transition from Part C to Part B is smooth and effective when, by the child’s third birthday, an IEP “has been developed and *is being implemented* for the child.” Defs.’ Reply in Further Supp. of Defs.’ Mot. for Recons. 3. Defendants interpret this language to suggest that all services do not have to be provided by a child’s third birthday, but rather, that related services are “made available” by a child’s third birthday. *Id.* In the Court’s opinion, however, an IEP is only being implemented at the time that the child is receiving the services prescribed in the IEP. *See, e.g.*, 2015 *Dunst Direct* ¶¶ 64, 121–23; *see also* Pls.’ Opp’n to Defs.’ Mot. for Recons. 7–9, ECF No. 470 (citing support). Indeed, the point of the smooth and effective transition requirement is to ensure that children do not experience a disruption in service. *Id.* In sum, the District has drawn a line between educational services and related services which is not supported by the language or purpose of the statute.

133. Third, the District argues that because a child’s birthday may fall on a weekend or summer holiday, when services are not available, or because certain events may occur that

prevent a child from receiving services on the third birthday (for example, if the child is sick), the District need not provide all services by the third birthday. Reply in Further Supp. of Defs.’ Mot. for Recons. 3–4, ECF No. 473. However, the potential for those events to occur does not mean that the District is relieved of its statutory obligations. When a child’s birthday falls on a weekend or summer holiday, assuming that the child does not qualify for summer services, *see infra* para. 153, then the services should be provided on the next school day—it is that simple. Adopting the District’s proposed rule would in practice mean that there is no actual due date.

134. It bears noting that OSSE’s reporting practices regarding Part C services are at odds with its argument that it need not provide all Part B services by the child’s third birthday or that it is impractical to do so. The OSSE Part C program reports to OSEP that services have been timely provided to a child only when all services have been provided by the Part C deadline. Trial Tr., DeHaan Test., Nov. 13, 2015, 18:9–19:9.

135. Fourth, the District essentially argues that compliance must be assessed on a child-by-child basis. *See* Defs.’ Reply in Further Supp. of Defs.’ Mot. for Recons. 6, ECF No. 473, (“[I]t is also important to appreciate that the decision of how to implement an IEP is necessarily child-specific.”), *id.* at 7 (“The IDEA is a statute that rejects bright lines and cookie cutter approaches.”). This decision relates to the District’s obligation to have in effect policies, procedures, and practices to ensure that, for transitioning children, the IEP is being implemented and a FAPE is available by the child’s third birthday. The impact of any particular delay on any particular child is not addressed herein.

136. Regardless, there is little difference between the parties in terms of the evidence on this issue. In assessing the District’s performance, plaintiffs conservatively assessed whether children received their services within 14 days of their third birthday or within 14 days of the start

date for services in the IEP if the child's birthday was over the summer. *See* Pls.' Post-Trial Proposed Findings of Fact and Conclusions of Law Regarding Individual Children 41–56, ECF No. 514-2. Similarly, Dr. Maisterra testified that 14 days is a reasonable period of time for related services to begin and the District itself assessed whether related services began within 14 days in its own audits. *See* Maisterra Dep. 345:12–15, July 2, 2015, Pls.' Ex. 18.

2. The District Is Failing to Provide Smooth and Effective Transitions to Large Numbers of Children

137. Plaintiffs reviewed 100 sample children identified by the District as receiving a smooth and effective transition by their third birthday. First, three children did not even receive notices of their location of services or confirmation that their IEP could be implemented at the location preferred by their parent by their third birthdays. Pls.' Post-Trial Proposed Findings of Fact and Conclusions of Law Regarding Individual Children 39–41, ECF No. 514-2, ECF No. 514-2. This is explicitly contrary to the District's own policy. *See* Early Stages Evaluation Procedures: Transition, Early Stages Manual, Pls.' Ex. 63, at DL2015 2073 (“[I]t is essential that a Location of Service (LOS) letter is offered, dated, shared with the parent and uploaded in SEDS all before the child's third birthday. If this documentation is missing, OSSE will assume that the standard was not met.”).

138. Second, 21 children in the sample did not begin receiving all special education and related services within 14 days of the start date prescribed in their IEPs. Pls.' Post-Trial Proposed Findings of Fact and Conclusions of Law Regarding Individual Children 41–56, ECF No. 514-2.⁵

⁵ If a child did not timely receive services because the child was not promptly enrolled by the parent at the offered site, and the District had otherwise made reasonable efforts to ensure a smooth and effective transition, the District should not be held responsible for that delay. In preparing these data, plaintiffs did not count a transition as untimely where the delay in the commencement of services was attributable to a delay in the child's enrollment in the school where services were to be provided.

139. Third, the District applies the same parental delay standard with regard to transitions as it does with regard to other eligibility determinations. Proddatur Dep. 225:20–226:3, July 2, 2014, Pls.’ Ex. 18. Therefore, the District is over-counting parental delay with transitions just as it is with other eligibility determinations. *See* Pls.’ Post-Trial Proposed Findings of Fact and Conclusions of Law Regarding Individual Children 57–59, ECF No. 514-2.

140. Based on this information, Dr. Cupingood determined that almost 30% of transitioning children did not receive smooth and effective transitions. 2015 Cupingood Direct ¶ 73.

141. As described below, *see infra* paras. 153–56, the delays are even worse for children who are scheduled to transition over the annual summer break because they are not receiving appropriate consideration for summer services.

142. The District also produces data to OSEP related to smooth and effective transitions. The data are prepared in nearly the same way as the data produced for this case. Proddatur Dep. 269:5–270:4, July 2, 2014, Pls.’ Ex. 18. Accordingly, the data produced to OSEP are defective for all of the reasons described above.

G. THE DISTRICT’S POLICIES, PROCEDURES, AND PRACTICES ARE FLAWED

1. Generally

143. As described above, the District’s policies, procedures, and practices have failed to ensure that children are being identified and provided with a FAPE and that they timely receive eligibility determinations and smooth and effective transitions. The District has used flawed methods to calculate its statistics that purport to show otherwise.

144. Dr. Dunst testified based on the failures he identified, “the District does not have an adequate Child Find and related practices program to ensure that eligible children are provided [with a] FAPE.” 2015 Dunst Direct ¶ 165. He explained: “If it were running a program as required, available and accurate data would reflect such progress.” *Id.*; *see also* Trial Tr., Dunst Test., Nov. 12, 2015, 92:7–13.

145. The District contends that plaintiffs’ statistics are deficient because they are not accompanied by evidence of specific deficient policies and procedures. Trial Tr., Nov. 12, 2015, 20:4–24. However, many deficient policies and procedures are described above and below.

146. Plaintiffs concede that their evidence is less thorough than it was at prior stages in this litigation. Although it has made progress, the District is nevertheless required to have policies, procedures, and practices to ensure that all children who need special education and related services are identified and receive special education and related services, timely eligibility determinations, and smooth and effective transitions. The District’s failure to provide these services to hundreds of children represents serious systemic problems. The District needs to review its policies, procedures, and practices, in general, and those described herein in particular, in order to make the improvements necessary to comply with federal and District law.

2. The District’s Policy, Procedures, and Practices Regarding Presumptive Eligibility Are Flawed

147. Following the 2011 trial and the parties’ subsequent briefing and agreement, the Court ordered the following regarding presumptive eligibility:

Defendants shall accept all children exiting Part C who have identified disabilities or significant developmental delays as presumptively eligible for Part B in order to ensure that they do not experience a disruption in services. *Presumptively eligible for preschool education means that the information available at the time of the referral of a child— when he or she is nearly three years old and is about to transition from Part C to Part B— shall be presumed to be sufficient to make a decision about the child’s eligibility for Part B special*

education services, unless indicated otherwise by the Part B IEP Team. The Part B IEP Team may find, after reviewing the information available at the time of the referral of the child, that additional data is needed in order to make an eligibility determination. If the Part B IEP Team finds that additional data is needed in order to make an eligibility determination, the child may not begin receiving Part B services prior to an evaluation to determine the child's eligibility for such services.

Order 1–2, ECF No. 323 (emphasis added).

148. Dr. Beers explained that presumptive eligibility “is more family-friendly because it reduces the number of children who require assessments” 2011 Beers Direct ¶ 8, Pls.’ Ex. 1. It also reduces delay and prevents the disruption in services. 2015 Dunst Direct ¶ 147.

149. Despite the presumptive eligibility requirement and the District’s assertion that it “treats transferring children as ‘presumptively eligible,’” Defs.’ Proposed Findings of Fact and Conclusions of Law ¶ 79, the District reported very high and rising percentages of children transitioning from Part C to Part B services who received additional assessments: 73.3% (Dec. 1, 2010, to Nov. 30, 2011); 82.4% (Dec. 1, 2011, to Nov. 30, 2012); 87.5% (Dec. 1, 2012, to Feb. 28, 2013); 95.6% (Mar. 1, 2013, to May 31, 2013); 92.7% (June 1, 2013, to Aug. 31, 2013); and 94.4% (Sept. 1, 2013, to Nov. 30, 2013). Defs.’ Objections and Responses to Pls.’ First Post-Trial Requests for Produc., Pls.’ Ex. 31, at 21–22.

150. These high levels of assessments do not comport with the presumptive eligibility requirement. 2015 Dunst Direct ¶ 150. Moreover, Part C has narrower eligibility criteria than Part B, *see* DeHaan Direct ¶ 6, further suggesting that such high numbers of additional assessments should not be necessary. 2015 Dunst Direct ¶ 150. However, this data is entirely consistent with the Early Stages Policy Manual as of October 2010, which states that, upon transition, “Part C children will have updated evaluations in the areas currently being addressed on their IFSP.” Pls.’ Ex. 69, at DL4 2110. Indeed, despite the Court’s order regarding presumptive

eligibility, which issued in 2012 following the parties' agreement, *see* Mem. Op. 5–6, ECF No. 322, Mr. Compagnucci explained that the District's presumptive eligibility policy has not changed since 2010. Compagnucci Dep. 131:14–17, Aug. 12, 2014, Pls.' Ex. 21.

151. Dr. Dunst explained that research findings and his experiences demonstrate that such a large number of additional evaluations is not necessary and would not be required if the District were appropriately treating Part C children as presumptively eligible for Part B services. 2015 Dunst Direct ¶ 150. He also explained that “[t]hese additional evaluations are most likely resulting in additional delay and burden on both the children and their families, and the District is also likely using resources to conduct unnecessary evaluations in cases where children would obviously be eligible for Part B preschool special education.” *Id.* at 151.

152. Mr. Compagnucci testified that he did not know if there are any children whose disabilities are so obviously unchanged since the initial Part C evaluation that it would not be necessary to do any further assessments. Compagnucci Dep. 128:14–129:2, Aug. 12, 2014, Pls.' Ex. 21. Dr. Dunst stated that, based on over 40 years experience in this field, he is confident numerous children who would fall into that category. 2015 Dunst Direct ¶ 152.

3. The District's Policy, Procedures, and Practices Regarding Extended School Year Services Are Flawed

153. The District's policy requires that every child with an IEP be evaluated for Extended School Year (“ESY”) services (services offered over the summer period) in order to provide a child with a FAPE. 2015 Maisterra Direct ¶ 8 (stating that Early Childhood Transition Policy “mandate[es] evaluation for entitlement to [ESY] services for those children whose birthdays fall during summer months”); OSSE Extended School Year Service Policy, Mar. 10, 2011, Pls.' Ex. 47, at 1–2. During that ESY evaluation, “IEP Teams must use student data to quantify, to the extent possible, the likely impact of a break in service on educational benefit,

through a rigorous discussion of critical skill regression and recoupment.” OSSE Extended School Year Service Policy, Pls.’ Ex. 47, at 3. In doing so, “LEAs should utilize any relevant current data for students for whom the LEAs cannot obtain three months of progress monitoring data from the current school year.” *Id.* at 3 n.6.

154. OSSE’s Part B Student Compliance Monitoring Tool, attached to the Special Education Monitoring and Compliance Manual, requires that each file include evidence that the child’s eligibility for ESY was properly evaluated and that:

If no evidence can be provided, [t]he IEP Team must convene or amend the IEP to complete the ESY criteria worksheet and determine the appropriate amount of compensatory education if the student requires compensatory education. OSSE must confirm that the LEA is correctly implementing the specific regulatory requirement (achieved 100% compliance) based on a review of updated data.

August 2014, Pls.’ Ex. 51, attachment p. 11.

155. In direct contradiction to its policies requiring evaluation using existing data, the District has denied ESY services to the majority of transition children whose birthdays are in the late spring or summer, either with no explanation at all or stating that there is insufficient data upon which to make a determination. Plaintiffs’ Exhibit 111 includes the ESY Services Eligibility Worksheets for children in the 100 child transition sample who received an ESY eligibility determination between April and August 2013 (the period just prior to and during the summer). Of those 35 worksheets, there are 9 children for whom the worksheet is blank, except for marking the child as ineligible for ESY services, *see* Pls.’ Ex. 111, at 1, 2, 6, 22, 28, 29, 32, 34, 37; 10 children for whom the District concluded that there was not sufficient information to make a determination as to the child’s ESY eligibility and, therefore, denied ESY services, *see id.* at 3, 7, 11, 12, 14, 16, 21, 26, 27, 36; and 11 children for whom it is not clear whether the District concluded that there was not sufficient data to make a determination or that the LEA reviewed

the data and concluded, without reference to data, that the child did not qualify for ESY services, *see id.* at 5, 8, 9, 17, 20, 23, 24, 30, 33, 35, 38. For these 11 children, it appears that the LEA is just using different phrasing to conclude that there is not enough data to make an ESY determination. *See, e.g.*, Pls.’ Ex. 5, at 5 (“Evaluation team does not have enough data to qualify student.”). That totals 30 out of 35 ESY worksheets (over 80%) that demonstrate failure to evaluate properly a child for ESY services and failure to comport with the District’s policies.

156. By projecting services to begin in the fall for children transitioning from Part C to Part B services whose third birthdays are in the late spring or summer and simultaneously failing to evaluate their eligibility adequately for ESY services, the District is causing those children to experience a substantial disruption in services.

4. The District’s Policy, Procedures, and Practices Regarding Parental Delay Are Flawed

157. The District’s parental delay policies, procedures, and practices are flawed. Of course, the District should not be blamed for an untimely determination if the parent does not reasonably participate in the eligibility determination process. *See* 34 C.F.R. § 300.301(d)(1) (exception to the timeliness requirement if the “parent of a child repeatedly fails or refuses to produce the child for the evaluation”).

158. However, under its current policy, if District attempts to contact a parent three times, using more than one form of communication, at any time during the 120-day period, and the eligibility determination is issued after the 120 days, the District concludes that there was parental delay and omits this child’s referral from its statistics. *See* Proddutur Dep. 161:11–162:12, July 2, 2014, Pls.’ Ex. 18; OSSE FFY 2012-Initial Evaluation Timeliness-Business Rules, Pls.’ Ex. 34, at DL2014 2262.

159. The District admits that it does not even consider whether it is fair to blame the parent for the delay. Proddatur Dep. 176:17–21, July 2, 2014, Pls.’ Ex. 18 (“[Q]: Did you ever consider whether it’s fair to blame the parent for delay? [A]: No because we do not make judgment calls here. We go by the policy, and we try to make concrete measurement.”)

160. Moreover, Plaintiffs identified numerous children for whom the District stated the delay should be attributed to the parent but for whom most of the delay was attributable to the District or the determination was otherwise unreasonable. *See* Pls.’ Post-Trial Proposed Findings of Fact and Conclusions of Law Regarding Individual Children 21–38, ECF No. 514-2.

161. The District should revise its parental delay policy so that it uses common sense and fairness to determine when any delay should be attributed to the LEA and when any delay should be attributed to the parent. 2015 Dunst Direct ¶ 103. For example, the parental delay rules should not allow attempts at parent contact that are clearly ineffective, such as repeat calls to a disconnected telephone number, to count towards meeting the minimum number of attempts at contact. *Id.* The revised rules should account for both delays by the LEA in attempting to contact the parent and in parental responsiveness, all of which should be documented. *Id.*

H. EXPERTS’ OPINIONS

162. Both parties’ special education experts agree that the District has shown substantial improvement. 2015 Dunst Direct ¶ 21; *see generally* 2015 Freund Direct.

163. Nonetheless, Dr. Dunst has continued to express substantial concerns regarding the District’s program. 2015 Dunst Direct ¶ 21. He described the District’s failures to use appropriate criteria for determining compliance with the benchmarks and concern over the resulting statistics. *Id.* at ¶¶ 22–140. He expressed concern over the District’s policies regarding

parental delay, ESY services, and presumptive eligibility. *Id.* at ¶¶ 100–03, 141–53. He also expressed concern over the District’s staff and the quality of the data in the District’s databases.

Id. at ¶¶ 154–58. He explained that:

As a result of the failure to comply with these numerical requirements, despite years of attempts to correct its noncompliance, and because of all the discrepancies in how enrollment, eligibility determinations, smooth and effective transitions, ESY, presumptive eligibility, and other Child Find requirements are defined and measured, the continued history of unreliable data collection and calculation of the indicators for OSEP and the Court-ordered benchmarks, and the lack of a complete understanding of the meaning of the IDEA Child Find requirements and how to accurately measure the OSEP indicators, there is a need for oversight and monitoring to ensure that these failures are remedied.

Id. at ¶ 164.

164. The District’s expert, Dr. Freund, is much more positive about the District’s program. However, as discussed, she did not analyze the District’s data that were reported in this case. Freund Dep. 87:13–15, Oct. 1, 2014, Pls.’ Ex. 22; Trial Tr., Freund Test., Nov. 16, 2015, 49:7–50:3. The District did not provide Dr. Freund with the underlying data that plaintiffs’ experts analyzed, and, therefore, she did not address the analyses performed by plaintiffs’ experts or opine regarding the accuracy of the District’s rates of identification, timely evaluations, timely eligibility determinations, or smooth and effective transitions, or the methods used in those calculations. Freund Dep. 198:13–199:10, 329:3–14, Oct. 1, 2014, Pls.’ Ex. 22. Dr. Freund based her opinion on the percentages and other information that the District presented to her and on her conversations with District representatives. *See* Trial Tr., Nov. 16, 2015, 35:7–36:16, 49:7–50:3; Freund Dep. 84:10–14, Oct. 1, 2014, Pls.’ Ex. 22.

165. In 2009, in describing what needs to be done to improve the District’s program, Dr. Freund wrote: “It would be essential that the expected documentation of data and tracking of children and outcomes be in place to determine the new system’s capability to effectively find,

refer, identify, and place children from birth to age 5 who are eligible for Child Find services.” 2009 Freund Report, Pls.’ Ex. 28, at 13. When asked about that statement at her deposition, she said: “I’m suggesting that there be on-the-ground data. OSEP requires, for the most part, summative data. I’m suggesting that there be data with regard to not just what has to be reported to OSEP, but what the work is and how the work is being done in the District for children who are identified or referral [sic].” Freund Dep. 278:12–18, Nov. 23, 2009, Pls.’ Ex. 9. The Court agrees. Review of that on-the-ground data shows that the District has inadequate policies, procedures, or practices.

I. THE DISTRICT HAS BEEN OR SHOULD HAVE BEEN AWARE OF ITS FAILURE TO COMPLY WITH ITS LEGAL OBLIGATIONS

1. OSEP Concluded that OSSE Fails to Comply with the IDEA

166. Since at least 1997, OSEP determined that the District failed to comply with requirements of Part B of the IDEA and has worked with it to address its ongoing noncompliance. *See* OSEP Notice of Written Findings and Decision and Compliance Agreement, 63 Fed. Reg. 41370, 41371, Aug. 3, 1998, Pls.’ Ex. 201. As described below, prior to 2011, OSEP took substantial action toward the District to address its noncompliance with regard to timely evaluations and smooth and effective transitions. *See infra* paras. 183–90; *see also* Mem. Op. ¶¶ 52–59, ECF No. 294.

167. From 2011 through 2014, OSEP also determined that the District “needs intervention” in implementing IDEA requirements and imposed special conditions due to the District’s lack of compliance with the requirement to provide timely initial evaluations to 3-21-year-olds. Letters from OSEP to OSSE, Pls.’ Ex. 226, at 1–4; Pls.’ Ex. 231, at 1, 3–5; Pls.’ Ex. 232 at 1, 4–6; Pls.’ Ex. 239, at 1, 5–7.

168. In 2011, OSEP's needs intervention determination was also due to noncompliance with the requirement to provide smooth and effective transitions. Pls.' Ex. 226, at 1–2; *see also infra* para. 190. In 2014, OSEP informed the District that it had satisfied its special conditions regarding those transitions. Letter from OSEP to OSSE, July 1, 2014, Pls.' Ex. 240, at 2. However, the transition data upon which OSEP relied to reach that conclusion suffer from the data problems described above, *see supra* paras. 123–27, and therefore should not be relied upon. *See Proddutur Dep. 269:5–270:4*, July 2, 2014, Pls.' Ex. 18 (stating that the calculation of data for OSEP and for this case are nearly identical). Moreover, OSEP does not review the District's files in the way that plaintiffs have done for the purposes of this litigation. Trial Tr., Dunst Test., Nov. 13, 2015, 50:23–51:1.

169. On June 30, 2015, OSEP informed OSSE that the District “needs intervention in implementing the requirements of Part B of the IDEA” for the “ninth consecutive year” (the longest period in the country), and imposed special conditions on the District's FFY 2015 IDEA grant awards due to the District's lack of compliance with timely initial evaluations for children ages 3 to 21. Letter from OSEP to OSSE, June 30, 2015, Pls.' Ex. 243, at 1, 4–8; Department of Education, 36th Annual Report to Congress on the Implementation of the Individuals with Disabilities Act, 2014, Dec. 2014, Pls.' Ex. 182, at 186 (stating that in 2011, the District was the only jurisdiction that needed intervention for three or more years). OSEP stated that the District “did not meet the Special Condition imposed on its FFY 2014 IDEA Part B grant award to ensure timely initial evaluations and reevaluations,” an issue that “was initially identified in the 1998-2001 Compliance Agreement between D.C. and the Department [of Education], and has been included in the Special Conditions imposed on each IDEA Part B grant award from 2001 to the

present.” Pls.’ Ex. 243, at 5. On July 1, 2015, OSEP again designated the District to be a “high risk” grantee. Letter from OSEP to OSSE, July 1, 2015, Pls.’ Ex. 244, at 1–2.

170. In addition, in his report regarding the 2012-2013 school year, the *Blackman-Jones* Court Monitor described the District’s repeated failure to achieve backlog reductions related to timely evaluations required by OSEP. Report of the Monitor for the 2012-2013 School Year, Feb. 3, 2014, Pls.’ Ex. 265, at 12–14. The District’s progress report related to the period between October 1, 2013, and March 31, 2014, stated that it again failed to meet OSEP’s target related to evaluation backlog reduction and identified the same reasons for delay. OSSE IDEA Part B Special Conditions Progress Report #2, clarified June 5, 2014, Pls.’ Ex. 238, at DL 2015 315.

2. OSSE Concluded That DCPS Fails to Comply with the IDEA

171. OSSE also concluded that DCPS needs intervention. On August 21, 2014, OSSE stated that, “based on the totality of the LEA’s data and information,” DCPS “Needs Intervention in implementing the requirements of Part B of IDEA.” Letter from OSSE to DCPS, Re: FFY 2012 LEA Determination, Aug. 21, 2014, Pls.’ Ex. 262, at DL2014 7929. Indeed, the agency cited the “[h]istory, nature and length of time of any reported noncompliance.” *Id.* Specifically, OSSE noted the LEA’s performance was lacking with respect to timely evaluations for 3-21-year-olds and smooth and effective transitions from Part C to Part B. *See id.* DCPS’s overall rating was 42%, which results from its overall failure to comply with IDEA requirements, a part of which are the issues relevant to this case. *Id.* at DL2014 7933; *see also* David Catania, *Reforming Special Education*, Pls.’ Ex. 271, at PL POST-TRIAL 2110 (“In the most recent performance determination for special education, as required by federal law, DCPS only received

a 42% rating—the lowest among all public schools—barely escaping substantial intervention, which would have required the District to withhold funding or take legal enforcement action.”).

3. Obvious Flaws in the District’s Policies, Procedures, and Practices Persist

172. Many of the flaws in the District’s data should have been obvious to its leadership. For example, there is no justification for choosing to report enrollment data based on the 2010 census figure, despite the fact that OSEP does not do so and the District uses the annual estimated census figure in its other reports to OSEP, *see supra* paras. 86–95, especially after plaintiffs brought this issue to the District’s attention in July 2014. *See* Dunst Expert Report, July 25, 2014, Pls.’ Ex. 25, at 9–11. The District claims that it reports its data according to OSEP’s requirements, *see* Maisterra Dep. 61:3–19, June 2, 2014, Pls.’ Ex. 14, but then deviates from the manner in which OSEP reports data for this metric without explanation.

173. In addition, it is a matter of concern that the District reports children with IEPs as receiving services by their third birthdays, *see supra* para. 126, when their own studies show that children often do not receive their related services within 14 days, and their own documents require that services begin by the third birthday. *See supra* para. 125.

174. The District also made corrections to its statistics and issued new training material after plaintiffs raised issues in this case. *See, e.g.*, Compagnucci Dep. 130:3–131:13, Aug. 12, 2014, Pls.’ Ex. 21 (explaining that he issued a new training document on presumptive eligibility as a result of plaintiffs’ deposition). The District should be discovering such flaws on its own. This case has been going on long enough that the District should have thoroughly examined and improved its policies, procedures, and practices without the need for additional oversight.

J. THE DISTRICT VIOLATED THE REHABILITATION ACT FOR THE PERIOD UP TO MARCH 22, 2010

1. The Court Previously Concluded that the District's Actions Prior to March 2010 Violated the Rehabilitation Act

175. As described above, *see supra* pp. 6–7, the Court found the District liable for violating the IDEA and District law through April 6, 2011, with regard to all plaintiffs. The D.C. Circuit vacated that decision; the Court now finds the District liable with regard to the four plaintiff subclasses' IDEA and District law claims.

176. The Court also previously found the District liable for violating the Rehabilitation Act through April 6, 2011. Mem. Op. 23, Aug. 8, 2010, ECF No. 198 (“The Court finds that, at least through and including the year 2007, defendants knew that their actions were legally insufficient, yet failed to bring themselves into compliance with their legal obligations, in violation of § 504 of the Rehabilitation Act, 29 U.S.C. § 794(a).”); Mem. Op., Nov. 16, 2011, ECF No. 294, ¶¶ 131–33 (“[F]rom 2008 to April 6, 2011 . . . the District of Columbia’s special education policies were a gross departure from accepted educational practices throughout the country . . . [and the District] knew that their actions were legally insufficient, yet failed to bring themselves into compliance with their legal obligations.”). Those findings were vacated by the D.C. Circuit on class certification grounds. After the case was remanded, the Court ruled for the District on summary judgment for plaintiffs’ post-March 2010 Rehabilitation Act claims; however, at the summary judgment phase, the Court did not resolve the Rehabilitation Act claims up to March 22, 2010. *See* Mem. Op. 14–15, June 10, 2015, ECF No. 444.

177. Accordingly, while the Court ruled for the defendants’ on summary judgment for plaintiffs’ Rehabilitation Act claims after March 22, 2010, the claims before that date were relitigated at trial.

2. The District Essentially Concedes That Its Program Was Seriously Deficient Prior to March 2010

178. The District essentially conceded that its program was seriously deficient before it issued its Evaluation, Transition, and Child Find policies on March 22, 2010. Defs.’ Mot. for Summ. J. 39, ECF No. 417 (“The systemic deficiencies that existed at the time this lawsuit was filed no longer exist.”); Mem. in Opp’n to Pls.’ Mot. for Partial Summ. J. and J. Pursuant to Rule 52(c) 3, ECF No. 424 (“That is not to say that the District’s IDEA preschool Part B program was not underperforming in certain respects during the period of July 21, 2005 to December 31, 2007; that general observation is not in dispute.”); Trial Tr., Apr. 7, 2011, Pls.’ Ex. 7, 79:11–14 (District’s counsel: “We’ve never denied that the District’s system for providing special education and related services to three-to-five-year-olds was broken for a long time.”); E-mail from Tameria Lewis, then the OSSE Assistant Superintendent for Special Education, to Kerri Briggs, then the OSSE State Superintendent, Jan. 27, 2010, Pls.’ Ex. 122, at 3 (“The actual performance data in both [the District’s Memorandum of Agreement reports and Annual Performance Reports to OSEP] are awful, so our best hope is to describe in as much detail as possible all of the actions we have taken in the last year to improve compliance in the APR.”).

179. Moreover, in the defendants’ proposed findings of fact and conclusions of the law, defendants do not dispute the merits of plaintiffs’ pre-2010 Rehabilitation Act claims. Instead, they argue solely that plaintiffs cannot prevail on these claims because they are moot. *See* Defs.’ Proposed Findings of Fact & Conclusions of Law ¶ 152, ECF No. 513 (“Accordingly, the Court has no authority to reach the merits of these claims.”).

180. As described in the Court’s accompanying Memorandum Opinion issued on this date, plaintiffs’ pre-2010 Rehabilitation Act claims are not moot because the voluntary cessation

exception to the mootness doctrine applies. The Court therefore has jurisdiction to reach the merits of these claims, and finds that each plaintiff subclass prevails.

3. The Parties' Special Education Experts Agree that the District's Program Was Seriously Deficient prior to March 2010

181. In her 2009 expert report, the District's expert extensively described the absence of a comprehensive Child Find system and the District's overall misunderstanding of and disregard for federal law:

This overall misunderstanding of the requirements of the federal law, compounded with a seeming historical lack of cooperation and discussion between the administrators and service providers of Part C, Part B, DCPS, and DHS, reflects the difficulties identified in meeting the obligations of IDEA Parts C and B.

The absence of a comprehensive Child Find system clearly has prevented identification, location, and referral of children who may need early intervention or special education services.

2009 Freund Report, Pls.' Ex. 28, at 2–3; *see also id.* at 12–13 (“While I am certain that the time spent in a review of the program’s history was insufficient to allow me to capture every detail of the District’s Child Find history since 2000, there was ample material for me to determine that the systems in place to serve the birth-to-five population in the District of Columbia were inadequately designed, supported, and facilitated across many years. . . . And it appears that across several years, the system’s various leadership teams did little to correct the seemingly inefficient and ineffective practices to bring about greater access and outcomes for families and children in need of IDEA Part C and B services.”); Test. of Maxine Freund ¶ 2, Mar. 16, 2011, Pls.' Ex. 3 (“The District’s Part B Child Find system has a troubled history of failing to identify, locate, and provide services to eligible children aged three through five.”); Trial Tr., Freund Test., Nov. 16, 2015, 22:9–27:4.

182. Dr. Freund also informed the District that its policies were “problematical, misaligned and in need of improvement.” E-mail from Maxine Freund to Ellen Efros, OAG, Aug. 18, 2009, Pls.’ Ex. 119, at 4. In preparing her 2009 expert report, Dr. Freund stated that she was provided “incomplete documents, drafts, unsigned MOUs, and identified practices that did not benefit the systems involved in Child Find.” *Id.*

4. OSEP Repeatedly Informed the District That Its Child Find Program Was Seriously Deficient Through March 2010

183. Since at least 1997, OSEP determined that the District failed to comply with the requirements of Part B of the IDEA and has worked with the District to address its on-going noncompliance. *See* OSEP Notice of Written Findings and Decision and Compliance Agreement, 63 Fed. Reg. 41370, 41371, Aug. 3, 1998, Pls.’ Ex. 201. On March 16, 1998, OSEP entered into a Compliance Agreement with DCPS mandating full compliance with the requirements of Part B of the IDEA. *Id.* at 41370–71. According to the Agreement, DCPS was required to “ensure and document that no later than three years after the effective date of this Agreement . . . [a]n initial evaluation that meets the requirements of sections 614(a)(1), (b), and (c) of Part B of IDEA is completed for all children with disabilities” and that “[a] Child-Find system is established which identifies and locates all children with disabilities” *Id.* at 41374. The District was also required to

Develop policies and procedures to ensure a smooth transition for those individuals participating in the early intervention program under Part H [now Part C] of the IDEA who will participate in preschool programs, including a method for ensuring that when a child turns three, an IEP or IFSP has been developed and implemented by the child’s third birthday as required by section 612(a)(9) of Part B of IDEA.

Id. at 41380. OSEP also required the District to address deficiencies in the provision of related services. *Id.* at 41376–77; *see also* Mem. Op. ¶¶ 52–53, ECF No. 294.

184. In 2001, OSEP determined that DCPS had not met the requirement for timely initial evaluations. *See* Letter from OSEP to DCPS, Nov. 6, 2001, Pls.’ Ex. 202, at DL 8138–39. Based on this determination, OSEP designated DCPS as a “high risk” grantee and attached Special Conditions to its FFY 2001 grant under Part B. *Id.* at DL 8139. Among the Special Conditions were requirements to ensure that DCPS conduct timely initial evaluations by identifying the reasons that its current processes were inadequate and subsequently developing and implementing appropriate procedures. *See id.* at DL 8154–55.

185. In each subsequent year through 2008, OSEP cited the District for its failure to comply with the Special Conditions related to the provision of timely initial evaluations and extended the Special Conditions into the following fiscal year. *See* Letter from OSEP to DCPS, July 25, 2002, Pls.’ Ex. 204, at DL 8186–87; Letter from OSEP to DCPS, Sept. 30, 2003, Pls.’ Ex. 205, at DL 8204–05; Letter from OSEP to DCPS, Sept. 17, 2004, Pls.’ Ex. 206, at DL 8245–46; Letter from OSEP to DCPS, Aug. 5, 2005, Pls.’ Ex. 207 at 3015; Letter from OSEP to DCPS, June 28, 2006, Pls.’ Ex. 208, at DL 8289, 8297–98; Letter from OSEP to DCPS, July 9, 2007, Pls.’ Ex. 209, at DL 8318; Letter from OSEP to OSSE, July 9, 2008, Pls.’ Ex. 210, at DL 8365; *see also* Mem. Op. ¶ 55, ECF No. 294.

186. On June 1, 2009, OSEP stated that the District “needs intervention in meeting the requirements of Part B of the IDEA,” because the District “failed to meet the longstanding Special Conditions imposed on its FY 2008 grant under Part B of the IDEA related to . . . timely initial evaluations.” Letter from OSEP to OSSE, Pls.’ Ex. 211, at CF-DL 16913. As a result, OSEP decided to withhold 20% of the District’s FFY 2009 funds, stating:

Given the nature of the noncompliance noted in this letter and that D.C. has had Special Conditions placed on its grant award under Part B of the IDEA since 2001, the Department has concluded that D.C. would be unable to correct its problems in one year. D.C. previously entered into a compliance agreement with

the Department under the IDEA from 1998-2001, and it did not result in compliance. We therefore feel compelled to take a more serious enforcement action based on the magnitude of the noncompliance with the requirements of Part B of the IDEA and the length of that noncompliance. The Department has significant concerns about D.C.'s inability to correct areas of longstanding noncompliance that directly affect the appropriate provision of special education and related services to D.C.'s children with disabilities. As a result, . . . the Department intends to withhold 20 percent of D.C.'s FFY 2009 funds reserved for State-level activities . . . until D.C. has sufficiently addressed the areas in which it "needs intervention."

Id. at 16916; *see also* Mem. Op. ¶ 56, ECF No. 294 (quotations omitted).

187. On June 16, 2009, OSSE asked OSEP to reverse its decision to withhold funds, noting that it was "a new agency with new leadership resolute in its commitment to correcting the identified areas of noncompliance" Letter from OSSE to OSEP, Pls.' Ex. 212, at DL2 2172. OSEP declined, stating:

[T]he Department can no longer delay more serious enforcement action because of new leadership or a new agency. DC has a long history of turnover in the administration of the school system as a whole and in the administration of its special education program in particular. In the last three years, there have been four special education directors. In prior years when we have declined to take more serious enforcement action because new leadership had just arrived, the District continued to fail to meet many of the basic requirements of Part B of the IDEA. While the State organization and leadership changes, deficiencies in addressing the needs of children with disabilities remain, and many continue to be denied the free appropriate public education which they are entitled to under Part B of the IDEA.

Letter from OSEP to OSSE, June 30, 2009, Pls.' Ex. 213, at DL2 2176–77; *see also* Mem. Op. ¶ 57, ECF No. 294.

188. OSEP also expressed its reluctance to enter into another agreement with the District:

We have entered into agreements with DC before with little result. For example, every year since FFY 2001, . . . DC has assured the Department that it will meet all grant terms and conditions and all applicable requirements, but it has not carried out its commitments. Agreements alone with no consequences have repeatedly failed to result in DC achieving compliance with critical requirements of Part B of the IDEA.

Letter from OSEP to OSSE, June 30, 2009, Pls.’ Ex. 213, at DL2 2177.

189. Later that year, OSEP and OSSE entered into a Memorandum of Agreement “to establish benchmarks and reporting requirements . . . to bring the OSSE into substantial compliance with the IDEA” and “to resolve their dispute over the status of State-level funds withheld by the Department from the FFY 2009 Part B grant award.” Memorandum of Agreement, Dec. 7, 2009, Pls.’ Ex. 220, at CF DL 19357. According to the agreement, OSSE would only receive the withheld funds after it met certain benchmarks. *Id.* at CF DL 19367. Among those benchmarks, OSSE was required to demonstrate increasing compliance with the requirement to provide timely initial evaluations and placements to children with disabilities, as well as a reduction in the backlog of untimely initial evaluations. *Id.* at CF DL 19359–61; *see also* Mem. Op. ¶ 58, ECF No. 294.

190. On June 3, 2010, OSEP determined, for the fourth consecutive year, that the District “needs intervention” in complying with the requirements of Part B of the IDEA. Letter from OSEP to OSSE, Pls.’ Ex. 214, at DL2 9649. OSEP made its determination after noting, the District’s failure to provide valid and reliable FFY 2008 data for early childhood transition rates and its failure to comply with the Special Conditions related to providing timely initial evaluations and re-evaluations. *Id.* at 9649–50. OSEP specifically cited the District’s report that “its best available data indicate 8% compliance” regarding the smooth and effective transition requirement. *Id.* at 9649; *see also* Mem. Op. ¶ 71, ECF No. 294.

5. The District Failed to Provide Special Education and Related Services to Thousands of Children Prior to March 22, 2010

191. In 2006, the Court held that plaintiffs' allegations are sufficient for a prima facie claim that defendants' conduct was "grossly out of line with governing standards." Mem. Op. 4, ECF No. 55. In doing so, the Court referenced the fact that the District ranked last among states in the provision of special education services to preschool-age children. *Id.*

192. Thereafter, the Court held that, at least through 2007, the District failed to ensure that disabled preschool-age children were identified and received special education services in violation of the IDEA and District law. Mem. Op. 13–19, ECF No. 198. The Court described numerous agreed upon facts regarding deficiencies in the District's Child Find program:

The parties agree that in 2007, 5.74% of children ages 3 through 5 nationwide received special education and related services under Part B of the IDEA.

The parties agree that in 2007, the District of Columbia served 2.94% of its 3- to 5-year-olds under the IDEA, which was the lowest rate in the country. . . . The parties agree that between 1992 and 2007, the District of Columbia served 2-3% of its preschool population each year under the IDEA.

The parties disagree as to plaintiffs' initial assertion that "defendants have served approximately half the number of children ages 3 through 5 in the District of Columbia likely to be eligible for preschool special education under part B [as of 2007]." . . .

Defendants agree that based on the data in 2007 and earlier, this is true; defendants only object to post-2007 data.

The parties agree that between 2000 and 2009, "the systems in place to serve the birth-to-five population in the District of Columbia were inadequately designed, supported, and facilitated across many years. . . . The parties agree that, at least through and including the year 2007, defendants' public awareness and outreach efforts were unlikely to result in a substantial increase in the number of referrals to preschool special education. . . . The parties agree that, at least through and including the year 2007, defendants' refusal to accept and act on referrals made by primary referral sources was impeding identification of children eligible for preschool special education. . . . The parties agree that, at least through and including the year 2007, [d]efendants have pursued the same Child Find activities for several years

without achieving a significant increase in the number of preschool-age children served under Part B.

Mem. Op. 14–15, 17, ECF No. 198 (quotations omitted).

193. From 1992 to 2007, the District served, on average, around two to three percent of its pre-school age population. 2015 Dunst Direct ¶ 45. Over that period, the District was pursuing the same Child Find activities for years without achieving a significant increase in the number of preschool-age children served. *Id.*

194. The 2.94% that the District reported in 2007 was the lowest percentage in the country. 2015 Dunst Direct ¶ 46. That year, 43 states and Puerto Rico served over 5% of their three-to-five-year-old populations. Data Accountability Center, Pls.’ Ex. 176, at CF-DL 14047–48. The national average was 5.74%. *Id.* at CF-DL 14048. In 2008, the District’s percentage of children served fell to 2.72, and again was the lowest percentage in the country. Data Accountability Center, Pls.’ Ex. 177, at 1–2; 2015 Dunst Direct ¶ 46. That year, 5.68% of children aged three to five nationwide received Part B special education services. *Id.* at 2.

195. Thereafter, the District’s percentage increased, but remained seriously deficient, standing at 3.3% in 2009 and 5.4% in 2010. U.S. Department of Education 33rd Annual Report to Congress on the Implementation of the Individuals with Disabilities Education Act, 2011, Pls.’ Ex. 179, at 95; U.S. Department of Education 34th Annual Report to Congress on the Implementation of the Individuals with Disabilities Education Act, 2012, Pls.’ Ex. 180, at 101. The District should have been providing special education and related services to at least 8.5 percent of three-to-five-year-old children. *See supra* paras. 59–82.

196. Through March 22, 2010, the District was still failing to serve hundreds of children annually. In 2010, for example, there were 17,605 three-to-five-year-old children in the District. *See supra* paras. 87, 89. The District reported that 957 children received special

education and related services at that time. Part B 2010 Child Count Data, Mar. 4, 2011, Pls.’ Ex. 185, at DL4 2051. To satisfy the 8.5% benchmark in 2010 alone, the District would have needed to provide services to 1,496 children, or 539 additional children.

197. Dr. Freund and Dr. Dunst agree that the failure was caused by many deficiencies in the Child Find system generally, including weaknesses in the District’s public awareness and outreach efforts. 2015 Dunst Direct ¶¶ 45, 52–57; 2009 Freund Report, Pls.’ Ex. 28, at 2. For example, the District engaged in many public awareness activities, such as newspaper and radio announcements, which, standing alone, have been found ineffective nationally as Child Find strategies. 2015 Dunst Direct ¶ 53. Public awareness and outreach activities are most effective when they are used in conjunction with ongoing, direct contact with primary referral sources, such as physicians, hospitals, public health centers, and social services departments. *Id.*

198. In addition, the District’s outreach documents stated that referrals could be made by professionals such as pediatricians. 2015 Dunst Direct ¶ 54. Moreover, for at least part of the period prior to 2010, DCPS had a policy of not contacting a primary referral source after an eligibility determination is made. Johnston-Stewart Dep. 59:1–60:9, Nov. 13, 2008, Pls.’ Ex. 288; 2015 Dunst Direct ¶ 54. That practice most likely resulted in many children who were eligible for preschool special education not being located and screened for preschool special education. *Id.* The best practice is instead to acknowledge a referral and inform the person making the referral of the eligibility determination and the provision of services so that they will be more likely to make referrals in the future. *Id.*

199. Dr. Dunst recommended that the District make numerous improvements to its program to address the failure to identify and serve children with disabilities. 2015 Dunst Direct

¶ 58. The Court ordered the District to make those improvements. Mem. Op. ¶¶ 151–60, ECF No. 294.

6. The District Failed to Provide Timely Initial Evaluations to over a Thousand Children prior to March 22, 2010

200. The District reported that only 45.2% of 3-21-year-olds received timely evaluations for FFY 2007 (2007-2008), 66.56% of children received timely evaluations for FFY 2008 (2008-2009), and 75.09% of children received timely evaluations for FFY 2009 (2009-2010). OSSE Part B APR, FFY 2007, Feb. 2009, Pls.’ Ex. 219, at DL 18912; OSSE Part B APR, FFY 2008, Feb. 2010, Pls.’ Ex. 221, at DL2 2242; OSSE Part B APR, FFY 2009, Feb. 2011, Pls.’ Ex. 222, at DL3 814.

201. In the three subsequent progress reports that include data for the remainder of the relevant period, the District reported that only 65.4%, 70%, and 68% of 3-21-year-olds who were referred received timely initial evaluations and placements. OSSE Memorandum of Agreement Progress Report #1 (Reporting Period Sept. 4, 2009-Dec. 4, 2009), Jan. 11, 2010, Pls.’ Ex. 223, at CF DL 19417; OSSE Memorandum of Agreement Progress Report #2 (Reporting Period Dec. 5, 2009-Mar. 5, 2010), Apr. 1, 2010, Pls.’ Ex. 224, at CF DL 19428; OSSE Memorandum of Agreement Progress Report #3 (Reporting Period Mar. 6, 2010-June 6, 2010), July 2, 2010, Pls.’ Ex. 225, at DL2 11378.

202. These evaluation data do not apply only to three-to-five-year-old children, but do include them. Moreover, eligibility determinations are typically issued promptly after the completion of evaluations. 2015 Dunst Direct ¶ 113. Therefore, the percentages of timely evaluations should be nearly identical to the eligibility determination statistics described below. *Id.* In fact, the data may be exactly the same, since, at least for the period from 2011 to the present, the District has reported data regarding the percentage of timely eligibility determinations, but

referred to that data as the percentage of timely evaluations. *Id.*; *see also* Proddatur Dep. 76:11–20, July 2, 2014, Pls.’ Ex. 18. As described below regarding eligibility determinations, this adds up to untimely evaluations and determinations for well over one thousand children over the years.

203. Over this period, delays were caused at least in part by the District’s failure to respond timely to referrals:

Sean, sadly I must tell you the number [of calls to Early Stages from families with complaints] is a bit staggering. Unfortunately, practically every other call is for families not receiving calls back. On a daily basis I receive at least 4. I had even taken it upon myself to change the return call time from the 24-48 hours to 48-72 hours, but, I must say, even with that, it still has not worked. I hate to be the bearer of bad news, but this has been the reality. Sorry. . . .

Unfortunately, most of the calls are from families/individuals who have not received any contact since making the initial referral. So, to further clarify, the families are just trying to get to the initial ASQ screening.

E-mails from Carole Pratt, DCPS, to Sean Compagnucci, DCPS, Nov. 30, 2010, Dec. 1, 2010, Pls.’ Ex. 127, at 1; *see also* 2015 Dunst Direct ¶ 114.

204. Dr. Dunst recommended that the District make numerous improvements in addition to those referenced above to address the failure to provide timely evaluations and eligibility determinations for children with disabilities in the District. 2015 Dunst Direct ¶ 115. The Court ordered the District to make those improvements. Mem. Op. ¶¶ 161, 164, ECF No. 294.

7. The District Failed to Provide Timely Eligibility Determinations to over a Thousand Children prior to March 22, 2010

205. The Court previously found it undisputed that “[f]rom 2000 through 2008, 62.02% of all children ages 3 through 5 received an eligibility determination within 120 days of referral.” Mem. Op. 17, ECF No. 198; *see also* 2015 Cupingood Direct ¶ 16. This amounts to over one thousand children who did not receive timely determinations over that period. *Id.*

206. Those same delays continued through 2010. Dr. Cupingood concluded that only 56.75% of preschool-age children received a timely eligibility determination from 2008 through 2010 (41.44% in 2008, 68.43% in 2009, and 55.23% in 2010). *Id.* at ¶ 19.

207. As described above, *see supra* para. 203, delays were caused in part by the District's failure to respond timely to referrals. Dr. Dunst made several recommendations for improvement, which were ordered by the Court. *See supra* para. 204.

8. The District Failed to Provide Smooth and Effective Transitions to Many Hundreds of Children Prior to March 22, 2010

208. In 2010, the parties agreed that, at least between and including the years 2000 and 2007, the District's actions "didn't result in effective transitions for children into Part B from Part C." Mem. Op. 19, ECF No. 198.

209. The District reported the following percentages of children who received smooth and effective transitions, which demonstrate poor performance and substantial variability in the District's results: 17% for the 2004-2005 school year, 37% for the 2005-2006 school year, 40.62% for the 2006-2007 school year, 62% for the 2007-2008 school year, 8.22% for the 2008-2009 school year, and 30.25% for the 2009-2010 school year. District of Columbia Part B FFY 2004 SPP Response Table, Pls.' Ex. 215, at DL 8066; District of Columbia Part B FFY 2005 SPP/APR Response Table, Pls.' Ex. 216, at DL 8087; District of Columbia Part B FFY 2006 SPP/APR Response Table, Pls.' Ex. 217, at DL 8110; District of Columbia Part B FFY 2007 SPP/APR Response Table, Pls.' Ex. 218, at 8; OSSE Part B APR, FFY 2007, Pls.' Ex. 219, at DL 18917; OSSE Part B APR, FFY 2008, Pls.' Ex. 221, at DL2 2246; OSSE Part B APR, FFY 2009, Pls.' Ex. 222, at DL3 821; *see also* Mem. Op. 20, ECF No. 198; 2015 Dunst Direct ¶ 124.

210. These low rates of compliance resulted in delays for many hundreds of children over the years. 2015 Dunst Direct ¶ 125. For example, for the 2008-2009 period, the District

reported that only six children received a timely transition although 94 were referred. OSSE Part B APR, FFY 2008, Pls.’ Ex. 221, at DL 2246. The District reported that children received a transition an average of 139 days late. *Id.* at DL 2247. For 2009-2010, the District reported that 113 children did not have IEPs developed and implemented by their third birthdays. OSSE Part B APR, FFY 2009, Pls.’ Ex. 222, at DL3 822–23. That year, the District also reported:

[T]he range of days beyond the third birthday for a student to have an IEP developed and implemented is 1-572 days. The reasons for delay include LEAs not having adequate resources (evaluators) to conduct evaluations; a lack of understanding regarding the requirement to conduct evaluations by a child’s third birthday rather than applying the State-established timeline for initial evaluations (120 days); difficulty coordinating evaluations and eligibility meetings with parents; and inadequate systems for communication between Part C and Part B.

Id. at DL3 823.

211. The Court found it undisputed that “at least through and including the year 2008, the District’s most significant challenge . . . [was] getting children through this [transition] process in a timely manner with the least amount of disruption to the child and family.” Mem. Op. 20, ECF No. 198 (citation omitted). Moreover, “at least through and including the year 2007, the procedures used by defendants to screen children exiting Part C were in many cases not necessary and delayed provision of preschool special education.” *Id.* (citation omitted). Indeed, “the screening procedures used by defendants with preschool children were unreliable and were not always aligned with accepted practices in the field.” *Id.* (citation omitted); *see also* 2015 Dunst Direct ¶ 126; Freund Dep. 49:14–51:16, Nov. 23, 2009, Pls.’ Ex. 9.

212. Over that period, DCPS generally did not use the assessment results provided by Part C to determine eligibility for Part B. 2015 Dunst Direct ¶ 126; *see also* Freund 2009 Expert Report, Pls.’ Ex. 28, at 2 (“This overall misunderstanding of the requirements of the federal law, compounded with a seeming historical lack of cooperation and discussion between the

administrators and service providers of Part C, Part B, DCPS, and DHS, reflects the difficulties identified in meeting the obligations of IDEA Parts C and B.”); Sharif Dep. 83:15–85:3, Nov. 24, 2008, Pls.’ Ex. 8 (describing complaints from parents related to new rounds of Part B assessments where a child’s disability is clear). The policy of starting the eligibility determination process over from scratch necessarily resulted in delays in eligibility determinations for many children. 2015 Dunst Direct ¶ 126.

213. Moreover, during that period, the District struggled with “friction” between the Part C and Part B teams. E-mail from Dr. Maisterra to Jerri Johnston-Stewart, OSSE, Nov. 23, 2009, Pls.’ Ex. 121, at 1; *see also* E-mail from Dr. Beers to Dr. Maisterra and Jerri Johnston-Stewart, Nov. 23, 2009, Pls.’ Ex. 121, at 3 (“After our meeting in October, I had thought that we were all on the same page. However, it did not appear to be the case at the Part C provider meeting on Thursday. . . . During the meeting, it became clear that no information from our October meeting (OSSE and DCPS) had been shared with any of the Part C providers.”).

214. Finally, according to the District, of the 186 children referred by Part C to Part B during the 2007-2008 school year, 137 children (74%) did not receive a timely transition due to their “parent[al] refusal to provide consent [which] caused delays in evaluation or initial services.” OSSE Part B APR, FFY 2007, Pls.’ Ex. 219, at DL 18918. Dr. Dunst concluded that such a rate is exceedingly high and raises questions about why the delay would be attributed to so many families. 2015 Dunst Direct ¶ 127.

215. Dr. Dunst recommended that the District make improvements in addition to those referenced above to address the failure to provide smooth and effective transitions. 2015 Dunst Direct ¶ 128. The Court ordered the District to make those improvements. Mem. Op. ¶¶ 162–63, 165, ECF No. 294.

III. CONCLUSIONS OF LAW

A. BACKGROUND

216. Plaintiffs allege that, in violation of federal and District law, the District failed to implement policies, procedures, and practices to ensure that (1) preschool-age children with disabilities are identified for the purposes of offering special education; (2) preschool-age children with disabilities are timely evaluated for the purposes of offering special education; (3) preschool-age children with disabilities receive a timely determination of their eligibility for special education; and (4) children in the early intervention program under Part C of IDEA receive a smooth and effective transition to preschool special education under Part B by the child's third birthday.

217. Plaintiffs are preschool-age children with disabilities as defined in the subclasses. *See supra* p. 5. Subclass 1 is represented by named plaintiffs D.L. and J.B. Subclass 2 is represented by named plaintiffs T.F. and H.W. Subclass 3 is represented by named plaintiffs D.L., H.W., and T.F. Subclass 4 is represented by named plaintiffs X.Y. and T.L. Mem. Op. 24–25, ECF No. 389. The named plaintiffs and the subclasses that each of the named plaintiffs represent bring each of their claims against all defendants.

218. Defendants are the District of Columbia, Kaya Henderson, in her official capacity as the Chancellor of DCPS, and Hanseul Kang, in her official capacity as the State Superintendent of Education.⁶ In most instances, defendants are referred to collectively herein as the District. All of the defendants are liable for the reasons identified herein.

⁶ Other individuals were in those official roles at the time that this lawsuit was filed and since then. Federal Rule of Civil Procedure 25(d) provides for the automatic substitution of public officers when a public officer is a party to an action in an official capacity.

219. As Chancellor, Ms. Henderson is responsible for the administration of the Local Education Agency (“LEA”) DCPS, including the implementation of District and federal laws related to special education, such as Part B of the IDEA. D.C. Code 38-174(a), (c)(3).

220. As State Superintendent, Ms. Kang supervises the State Education Agency (“SEA”) OSSE, serves as the chief state school officer for the District, and represents the District in all matters before the United States Department of Education. D.C. Code § 38-2601.01.

221. This Court has jurisdiction over plaintiffs’ claims pursuant to 28 U.S.C. § 1331 and § 1367.

B. THE DISTRICT’S POLICIES, PROCEDURES, AND PRACTICES DO NOT SATISFY THE IDEA AND DISTRICT LAW

222. The District previously contended that it complied with its IDEA obligations as of March 22, 2010, because it issued three policies on that date. *See* Defs.’ Mot. for Summ. J. 1, ECF No. 417. That argument failed to grasp the scope of the District’s obligations under the IDEA. The relevant provisions of the IDEA do not merely require that the District issue policies. Rather, they require that the District implement policies and procedures that ensure identification and provision of a FAPE, timely evaluation, timely eligibility determination, and smooth and effective transition of preschool-age children with disabilities. *See* 20 U.S.C. § 1412(a)(1)(A) (requiring states to have “in effect policies and procedures to ensure that [a] free appropriate public education is available to all children with disabilities”); § 1412(a)(3)(A) (requiring a state to have “in effect policies and procedures to ensure that . . . [a]ll children with disabilities . . . are identified, located, and evaluated”); § 1412(a)(9) (requiring states to have “in effect policies and procedures to ensure that . . . [c]hildren participating in early intervention programs . . . and who will participate in preschool programs . . . experience a smooth and effective transition to those preschool programs . . .”).

223. In *Cordero by Bates v. Pennsylvania Department of Education*, 795 F. Supp. 1352, 1361–62 (M.D. Pa. 1992), plaintiffs brought a class action under the IDEA and the Rehabilitation Act to challenge the defendant’s systemic failure to provide timely and appropriate placements to children with disabilities. That defendant argued that, despite the delays and difficulties in placing large numbers of children, the state had satisfied its IDEA duties, which were limited to “providing funds, promulgating regulations and reviewing individual complaints.” *Id.* at 1361. The court explicitly rejected the state’s narrow view of the scope of its responsibilities under the IDEA:

As defined by the IDEA, the state’s role amounts to more than creating and publishing some procedures and then waiting for the phone to ring. The IDEA imposes on the state an overarching responsibility to ensure that the rights created by the statute are protected, regardless of the actions of local school districts. . . . The state must assure that in fact the requirements of the IDEA are being fulfilled.

Id. at 1362 (citations omitted).

224. The District has repeatedly acknowledged the need for its policies actually to achieve results. Defs.’ Proposed Findings of Fact and Conclusions of Law ¶ 64, June 3, 2011, ECF No. 254 (“The District’s Part B system has begun to be built, and it needs time to be tested.”); Mem. Op. ¶ 68, ECF No. 294 (“Dr. Nathaniel Beers acknowledged that it would take at least three to five years to ensure that the recent reforms to the District’s special education policies and to the Early Stages Center are stabilized and headed in the appropriate trajectory.” (quotation omitted)); Test. of Maxine Freund ¶ 10, Mar. 16, 2011, Pls.’ Ex. 3 (“In sum, it is my expert opinion that the District has achieved several of its initial goals as it works to overcome the historic dysfunction in its Part B system, and has now established a strong structure of rules, regulations, policies, and procedures, administered by talented leadership and sufficiently staffed, that can serve as the foundation for a well-functioning and effective Part B system.”); Trial Tr.,

Freund Test., Nov. 16, 2015, at 28:21–29:21, 32:13–15 (“[T]he backbone of the work . . . is about outcomes.”).

225. In accordance with the IDEA, the Court in its 2010 summary judgment decision and at the 2011 trial examined whether the District’s policies, procedures, and practices were actually ensuring that preschool-age children were being identified and receiving FAPE’s, were receiving timely evaluations and timely eligibility determinations, and that children receiving Part C services were receiving smooth and effective transitions to Part B services. Specifically, the Court examined evidence of the District’s rates of enrollment, timely evaluation, timely eligibility determination, and smooth and effective transition for preschool-age children. Mem. Op. 13–21, ECF No. 198; Mem. Op. ¶¶ 23–45, ECF No. 294. The Court held, on the basis of statistical evidence and the other evidence regarding the District’s program, that the District had failed to fulfill its duties under the IDEA and District law. Mem. Op. 13–21, Aug. 10, 2010, ECF No. 13–21; Mem. Op. ¶¶ 105–26, ECF No. 294.

226. Moreover, in its 2011 decision, the Court issued an injunction that required the District to meet benchmarks of at least 8.5% enrollment in special education and related services and at least 95% with respect to timely initial evaluations, timely eligibility determinations, and smooth and effective transitions, in order to comply with its IDEA and District law obligations. Mem. Op. ¶¶ 147–50, ECF No. 294. In doing so, this Court sought compliance, not perfection. *See* Mem. Op. 19, ECF No. 444 (“[T]his Court never sought to demand perfection, and instead

found that the District failed to provide required services to significant numbers of preschool-age disabled children.”).⁷

227. The Court further required the District to show sustained compliance by satisfying all of the numerical benchmarks simultaneously during a period of three or four years. Mem. Op. ¶¶ 169–72, ECF No. 294. The injunction also imposed programmatic requirements, which would not terminate until the numerical benchmarks were met. *Id.*

228. Thus, the Court made clear that, in order to satisfy its obligations, the District could not simply meet programmatic requirements. It had to show that its policies, procedures, and practices were working effectively.⁸ The Court recently repeated this point. *See* Mem. Op. 18–19, ECF No. 444 (“The question . . . is whether the District’s policies were successfully implemented, thus ensuring that the District met the required conditions.”).

229. The District claims that it has substantially improved its program and has high rates of statistical compliance. However, as described above, the District is still failing to comply with its obligations with regard to large numbers of preschool-age children. The District previously had such a low level of compliance that, despite its improvement, it is still failing to comply with federal and District law.

⁷ As described above, although the D.C. Circuit vacated the Court’s 2011 injunction based upon class certification issues, that decision did not cast into doubt anything with regard to the substance of the Court’s Memorandum Opinion & Findings of Fact and Conclusions of Law, or the injunction that issued therewith after trial. *See* ECF No. 295. Therefore, while the injunction is no longer valid, the District had ample notice of the Court’s reasoned opinions on issues critical to this case. *See* Mem. Op. 35, 37, ECF No. 444.

⁸ OSEP similarly assesses, on the basis of statistical data reported by the District, whether the District is complying with its obligations under the IDEA. *See, e.g.*, Letter from OSEP to OSSE, June 23, 2014, Pls.’ Ex. 239, at 6–7 (“Although D.C. has made progress in ensuring timely initial evaluations and reevaluations and reducing the backlog of children with overdue initial evaluations and reevaluations, the State has not yet achieved compliance with the requirements in IDEA sections 612(a)(7) and 614(a) through (c) and 34 C.F.R. §§300.301(c)(1) and 300.303.”).

230. Plaintiffs identified fewer programmatic failures than at previous stages in this case. That is in large part because the District has improved its program and therefore its flaws are not as obvious as they once were. For the reasons described above, *see supra* paras. 145–46, additional detail regarding the specific flaws in the District’s program that led to these statutory failures is impractical and unnecessary. *See also Cordero by Bates v. Pa. Dept. of Educ.*, 795 F. Supp. at 1362–63 (stating that where evidence showed that “numerous handicapped children in the Commonwealth are not receiving free appropriate public educations” and that “significant numbers of handicapped children are made to wait inordinate amounts of time to obtain placements in private schools,” it was “well within [the Court’s] powers to declare that the Defendants’ special education system as well as its supervision and leadership under the [IDEA] are inadequate and to order injunctive relief to fix the problems”).

231. The District argues that plaintiffs raised issues with the District’s statistics, and made adjustments to the District’s statistics, which they did not raise or make at the 2011 trial. *See, e.g.*, Trial Tr., Nov. 12, 2015, 19:8–10 (District’s counsel: “[T]he statistics that plaintiffs offer today are not the statistics that the Court credited in 2011. It’s not apples to apples.”). That is correct. In general, plaintiffs had no reason to assess the accuracy of the District’s statistics in 2011 because, at that time, the District’s own statistics demonstrated its failures. *See, e.g.*, Mem. Op. ¶¶ 26–28, ECF No. 294. At this stage, the District produced statistics which purport to exceed the 2011 benchmarks. *See* Defs.’ Proposed Findings of Fact and Conclusions of Law ¶¶ 101, 109, 119 (relating to benchmarks for enrollment, timely eligibility determinations, and smooth and effective transitions). Therefore, plaintiffs looked more closely at those statistics, which ultimately exposed their flaws. Had plaintiffs done so previously, the District’s statistics for the previous period, *see supra* paras. 191–215, would almost certainly have been lower.

232. The District also argues that plaintiffs’ statistics are inappropriate because they purportedly “turn on subjective determinations made by plaintiffs’ attorneys, and they use business rules that they have created themselves without the input of OSSE, DCPS, the Federal Government or any other state or local education agency.” Trial Tr., Nov. 12, 2015, 19:18–22; *see also* Defs.’ Proposed Findings of Fact and Conclusions of Law ¶ 112 (“Plaintiffs employed a series of analytical assumptions that depart, in critical respects, from OSSE’s business rule for calculating [timely eligibility determinations].”); *id.* at ¶ 123 (“Unlike the District’s processes, Plaintiffs’ counsel’s work [in calculating timely transitions] was not driven by standardized business rules specifying the relevant records or the standards against which records are to be analyzed.”). However, as described herein, plaintiffs’ corrections to the District’s statistics are grounded in facts and law. For example, as required by the IDEA, all services must commence by the child’s third birthday. *See supra* paras. 123–25.

233. The District also argues that plaintiffs’ method of calculation “relies on malleable standards such as reasonableness, fairness, [and] common sense, instead of objective data points.” Trial Tr., Nov. 16, 2015, 68:15–17. First, it is not objectionable to rely on reasonableness, fairness, and common sense. Second, the only rule that plaintiffs proffer that is arguably subjective relates to parental delay. Plaintiffs believe that the District must revise its parental delay policy so that it uses common sense and fairness to determine when any delay should be attributed to the LEA and when any delay should be attributed to the parent, consistent with 34 C.F.R. § 300.301(d)(1) (“The timeframe described in paragraph (c)(1) of this section does not apply to a public agency if—(1) The parent of a child repeatedly fails or refuses to produce the child for the evaluation.”). For example, the parental delay rule should not allow attempts at parent contact that are clearly ineffective, such as repeat calls to a disconnected telephone

number, to count towards meeting the minimum number of attempts at contact. The revised rule should account for both delays by the LEA in attempting to contact the parent and in parental responsiveness, all of which should be documented. Such a rule could be objective while looking to all of the relevant facts, rather than looking just at whether there were three attempts at communication using more than one form of communication. *See* Trial Tr., *Dunst Test.*, Nov. 12, 2015, 109:18–21 (stating that standards in federal reporting “[s]hould be objective, but . . . need[] to account for all the variations that occur in real life situations”). That is preferable to the method that the District is currently using, which, as applied, unfairly attributes delay to parents and artificially inflates its resulting statistics. *See supra* paras. 158–60. This Court is not setting the precise parameters of the rule. Therefore, the District has the flexibility that it needs to craft a rule that will work for it.

234. The District also argues that plaintiffs’ approach is too time-consuming because it took plaintiffs’ counsel three months to prepare their analysis of individual children’s records. Trial Tr., Nov. 16, 2015, 66:22–67:2. Plaintiffs are not suggesting that the District regularly or even ever analyze children’s files as plaintiffs did. That was done for purposes of this litigation to understand the District’s compliance with the IDEA, how the District reached its statistical conclusions in practice, to identify flaws in that process, and to summarize large quantities of evidence for the Court. Now that the flaws are identified, the District should ensure that its data management system is able to track the relevant metrics so that it would not need to perform a child-by-child analysis in the normal course, although a similar type of analysis may still be useful as part of the District’s monitoring process.

235. The District suggests that if its statistics are in fact deficient, as plaintiffs argue, it is because the District was working toward compliance with the wrong rule in mind and that

“[t]here’s nothing in the record to suggest that if the assumptions were to change, the processes wouldn’t work, or that the processes would subsequently violate the IDEA.” Trial Tr., Nov. 16, 2013, 71:9–73:8. For example, the District implies that if it needed to start the 120-day timeline when a non-parent referred a child, use the annual census estimates as a denominator, or ensure that children receive all of their special education and related services by their third birthday, it could do so and meet the required benchmarks. The Court looks forward to seeing such results. However, there is ample evidence that suggests otherwise. For example, as described above, *see supra* para. 117, the District has long set a goal of providing eligibility determinations to children in 60 (rather than 120) days, but, as of now, it is not even complying with its obligation to complete the process in twice that amount of time.

236. In sum, plaintiffs’ counsel analyzed the files of individual students in an effort to demonstrate the District is not complying with its affirmative obligations under the IDEA. Rather than disputing plaintiffs’ findings, the District argues that their method of analysis is invalid. In making this argument, the District overlooks this Court’s repeated rulings that the District’s compliance will be assessed with reference to the outcomes of its policies. *See supra* para. 53. The plaintiffs simply evaluated data the District provided to them, and the Court will credit their findings.

C. SUBCLASS 1 IDEA AND DISTRICT LAW CLAIMS

237. Subclass 1 alleges two claims under the IDEA and District law: (1) that the District failed to ensure that preschool-age children with disabilities receive FAPE’s and (2) that the District failed to ensure that preschool-age children with disabilities are identified for the purposes of offering special education services. These two claims hinge on the same fundamental allegation that, as a result of its deficient Child Find practices, the District is not ensuring that

children with disabilities receive needed special education and related services. *See* Mem. Op. 11, ECF No. 482 (“As they always have, plaintiffs continue to use the enrollment figures as one of many potential ways to approximate the District’s success in identifying and locating disabled children”); Mem. Op. ¶ 119, ECF No. 294 (“Based on paragraphs 23–37 of the above findings of fact [including findings related to deficient enrollment numbers and the denial of a FAPE], the Court holds that, from 2008 to April 6, 2011 (the first day of trial), defendants failed to identify and provide timely initial evaluations to all preschool-age children with disabilities in the District of Columbia, in violation of 20 U.S.C. §§ 1412(a)(3)(A) and 1414(a)(1)(C).”); *N.G. v. District of Columbia*, 556 F. Supp. 2d 11, 16 (D.D.C. 2008) (“This mandate is known as the ‘Child Find’ obligation, an affirmative obligation of every public school system to identify students who might be disabled and evaluate those students to determine whether they are indeed eligible. As soon as a child is identified as a potential candidate for services, DCPS has the duty to locate that child and complete the evaluation process. Failure to locate and evaluate a potentially disabled child constitutes a denial of FAPE.”).

1. FAPE Claim

238. IDEA’s primary mandate is “to ensure that all children with disabilities have available to them a free appropriate public education that emphasizes special education and related services designed to meet their unique needs” 20 U.S.C. § 1400(d)(1)(A). It is required to have “in effect policies and procedures to ensure that . . . [a] free appropriate public education is available to all children with disabilities residing in the State between the ages of 3 and 21, inclusive” 20 U.S.C. § 1412(a)(1)(A); *see also N.G.*, 556 F. Supp. 2d at 15–16 (“[Under the IDEA] all public education agencies are required to have in effect policies and

procedures to ensure that: [a]ll children with disabilities . . . who are in need of special education and related services, are identified, located and evaluated.” (citation omitted)).

239. The term “free appropriate public education” means special education and related services that:

(A) have been provided at public expense, under public supervision and direction, and without charge; (B) meet the standards of the State educational agency; (C) include an appropriate preschool, elementary school, or secondary school education in the State involved; and (D) are provided in conformity with the individualized education program required under section 1414(d).

20 U.S.C. § 1401(9); *see also Bd. of Educ. of the Hendrick Hudson Cent. Sch. Dist. v. Rowley*, 458 U.S. 176, 203 (1982) (ruling that a state satisfies its requirement to provide a FAPE “by providing personalized instruction with sufficient support services to permit the child to benefit educationally from that instruction”).

240. District law, which incorporates the federal FAPE obligations, requires:

All local education agencies (LEA) in the District of Columbia [to] ensure, pursuant to the Individuals with Disabilities Education Act (IDEA), that all children with disabilities, ages three to twenty-two, who are residents or wards of the District of Columbia, have available to them a free appropriate public education (FAPE) and that the rights of these children and their parents are protected.

5-E D.C.M.R. § 3000.1; *see also* 5-E D.C.M.R. § 3002.1(a), (e) (stating that LEAs shall provide a FAPE to each child with a disability).

241. The Court previously held that, through April 6, 2011, the District denied a FAPE to a large number of children aged three to five years old in violation of the IDEA and District law. Mem. Op. 15–16, 24 ECF No. 198 (through 2007); Mem. Op. ¶¶ 111–13, ECF No. 294 (through April 6, 2011).

242. After the D.C. Circuit vacated those findings of liability, the Court again found that the District violated the IDEA and District law. The Court addressed the District’s failure to

identify and did not explicitly address the FAPE allegations. Mem. Op. 11, ECF No. 444 (“Thus, plaintiffs have already shown and the Court has already found that there is no material dispute: Prior to 2007, the District failed to adequately identify children pursuant to its duties under the IDEA.”); *id.* at 14 (“[T]he Court finds that at least through and including the year 2007, the District’s actions constituted violations of the D.C. law as to each subclass.”); *id.* at 42 (“[P]laintiffs’ motion for partial judgment pursuant to Rule 52(c) from 2008 through April 6, 2011 will be granted as to plaintiffs’ claims under the IDEA and D.C. law . . .”). As described above, these two claims hinge on the same fundamental allegation. *See supra* para. 238.

243. In the joint pretrial statement, the District objected to plaintiffs’ FAPE claim on three grounds. *See* ECF No. 484, at 13. First, the District contends that “the generic denial of FAPE proposed is derivative of the subclass claims identified as Claims Two [identification], Three [timely eligibility determinations] and Four [smooth and effective transitions] in this Pretrial Statement.” *Id.* It is not objectionable or uncommon for the violation of one statutory provision to result in the violation of another. Moreover, in 2010 on summary judgment motions and in 2011 following the last trial, the Court held that the District failed to provide a FAPE to a substantial number of children with disabilities, *see* Mem. Op. 13–16, ECF No. 198; Mem. Op. ¶¶ 105–13, ECF No. 294, and also that the District failed to identify children with disabilities for purposes of providing them with special education services, Mem. Op. 16–19, ECF No. 198; Mem. Op. ¶¶ 114–23, ECF No. 294. The failure to identify, and the subsequent denial of a FAPE, differs from the harm defined in claims 3 and 4, that is, the failure to have eligibility timely determined and failure to be smoothly and effectively transitioned.

244. Second, the District contends that “no generic FAPE claim was pled in the Second Amended Complaint as a separate cause of action, and cannot be advanced by the subclasses as

certified.” Parties’ Joint Pretrial Statement 13, ECF No. 484. That is not true. Plaintiffs claimed that: (1) “[t]he IDEA and its implementing regulations require that ‘[a] free appropriate public education is available to all children with disabilities residing in the State between the ages of 3 and 21, inclusive’ 20 U.S.C. § 1412(a)(1)(A); *see also* 20 U.S.C. § 1400(d)(1)(A); 34 C.F.R. § 300.121; [and] (2) Defendants’ actions violate 20 U.S.C. § 1412(a)(1)(A) [requirement that FAPE be available to all children] . . . and the implementing regulations.” Second Am. Compl. ¶¶ 110, 114, ECF No. 398. Plaintiffs also claimed that the District violated their FAPE obligations under District law. *Id.* at ¶¶ 126, 128–30. Indeed, as described above, *see supra* para. 243, the Court ruled on plaintiffs’ FAPE claim in 2010 and again in 2011.

245. Third, the District contends that “[p]laintiffs’ claim, as proposed, would be contrary to established law in the Circuit, as a denial of FAPE does not automatically result from every violation under the IDEA.” Joint Pretrial Statement 13, ECF No. 484 (citing *Leggett v. District of Columbia*, 793 F.3d 59, 67 (D.C. Cir. 2015)). That is of course true: a procedural violation of the IDEA constitutes a denial of a FAPE only if it “‘results in loss of educational opportunity’ for the student.” *Leggett*, 793 F.3d at 67 (citing *Lesesne ex rel. B.F. v. District of Columbia*, 447 F.3d 828, 834 (D.C. Cir. 2006)). However, in this case, a disabled student is clearly denied educational opportunities if the District fails to identify him or her at the outset. Indeed, if the District fails to identify a disabled student, then there will simply be no way that the student is afforded the necessary accommodations, thus resulting in a loss of educational opportunity and a substantive violation, rather than one of a nonactionable procedural nature. *See id.*, at 67 (“[A] school district’s failure to comply with the procedural requirements of the IDEA will be actionable only if those procedural violations affected the student’s substantive rights.”)

(citation omitted)). The failure to identify a disabled student is therefore actionable as a denial of a FAPE. For all of these reasons, plaintiffs' FAPE claim is viable.

2. Child Find Claim

246. The District is also required to have “in effect policies and procedures to ensure that . . . [a]ll children with disabilities residing in the State . . . and who are in need of special education and related services, are identified, located, and evaluated and a practical method is developed and implemented to determine which children with disabilities are currently receiving needed special education and related services.” 20 U.S.C. § 1412(a)(3)(A).

247. District law adopts this requirement: “The LEA shall ensure that procedures are implemented to identify, locate, and evaluate all children with disabilities residing in the District who are in need of special education and related services” 5-E D.C.M.R. § 3002.1(d); *see also* 5-E D.C.M.R. § 3002.3(a) (“The LEA shall ensure that procedures are in place to identify, locate and evaluate children with disabilities residing in the District or children who are wards of the District.”).

248. The Court previously held that, through April 6, 2011, the District failed to comply with its Child Find identification duties in violation of the IDEA and District law. Mem. Op. 18, 24, ECF No. 198 (through 2007); Mem. Op. ¶¶ 118–19, 121–22, ECF No. 294 (through Apr. 6, 2011); Mem. Op. 11, 13–14, 19–20, 42, ECF No. 444 (through Apr. 6, 2011, post-remand).

3. Measurement

249. In its previous decisions, the Court found the District liable on the FAPE and Child Find claims based on facts regarding the District's inadequate enrollment rates of preschool-age children in special education services. *See* Mem. Op. 14–16, ECF No. 198; Mem. Op. 23–32,

111, 119, ECF No. 294. *See also infra* para. 237. Thus, the Court has held that the enrollment rate is the relevant numeric measure for Subclass 1’s IDEA and District law claims.

250. A child shall be considered enrolled, not just when the child has an IEP, but when a child has started to receive all of the services identified in the IEP. 34 C.F.R. § 300.641(a) (“report the number of children with disabilities receiving special education and related services”); 34 C.F.R. § 300.644 (“report children with disabilities who are enrolled in a school or program . . . that—(a) Provides them with both special education and related services . . .”); OSEP ED Facts Submission System Ages 3-5, Pls.’ Ex. 183, at 6 (“Include all children with disabilities (IDEA) who are ages 3 through 5 receiving special education and related services according to an individual education program or services plan on the count date.”). Child Find requires not just policies, procedures, and practices that ensure identification, location, and evaluation, *see* 20 U.S.C. § 1412(a)(3)(A), but also that the District have policies, procedures, and practices that ensure that “a practical method is developed and implemented to determine which children with disabilities are currently receiving needed special education and related services.” *Id.* Indeed, the entire point of the Child Find requirement is to provide services to children with disabilities. The District should record and track when children first receive special education and each related service required by an IEP.

251. In addition, based on paragraphs 86–95 above, the District’s enrollment percentage should be calculated based upon the U.S. Census Bureau’s estimated annual census figure for the District for all years between the decennial censuses.

4. Conclusion

252. Based on paragraphs 56–98, 143–146, 162–165, and 172–174 of the above findings of fact, the Court holds that, from April 7, 2011, to November 12, 2015 (the first day of

the second trial), the District has (1) in violation of 20 U.S.C. § 1412(a)(1)(A) failed to have in effect policies and procedures to ensure that a FAPE is available to preschool-age children with disabilities in the District, and (2) and in violation of 20 U.S.C. § 1412(a)(3)(A) failed to have in effect policies and procedures to ensure that preschool-age children with disabilities in the District are identified, located, and evaluated for the purposes of offering special education services and that a practical method is developed and implemented to determine which children with disabilities are currently receiving needed special education and related services.

253. Based on the same facts, the Court also holds that from April 7, 2011, to November 12, 2015 (the first day of the second trial), the District has, (1) in violation of District law (5-E D.C.M.R. §§ 3000.1, 3002.1(a), (e)), failed to ensure that a FAPE is available to preschool-age children with disabilities in the District, and (2) in violation of District law (5-E.D.C.M.R §§ 3002.1(d), 3002.3(a)), failed to ensure that preschool-age children with disabilities in the District are identified, located, and evaluated for the purposes of offering special education and related services.

D. SUBCLASS 3 IDEA AND DISTRICT LAW CLAIMS

1. Timely Eligibility Determinations Claim

254. As described above, the IDEA Child Find provision requires that “[a]ll children with disabilities residing in the State . . . who are in need of special education and related services, are identified, located, and evaluated” 20 U.S.C. § 1412(a)(3)(A); *see also* 5-E D.C.M.R. § 3002.1(d); 5-E D.C.M.R. § 3002.3(a).

255. Under the IDEA and its implementing regulations, jurisdictions must ensure that children receive an initial evaluation within 60 days of parental consent or within an alternative time frame specified by the state. 20 U.S.C. § 1414(a)(1)(C). District law extends that period to

120 days, beginning “from the date that the student was referred for an evaluation or assessment.” D.C. Code § 38-2561.02(a); *see Parker v. Friendship Edison Pub. Charter Sch.*, 577 F. Supp. 2d 68, 74 (D.D.C. 2008)). After the evaluations are complete, the child must receive an eligibility determination. 20 U.S.C. § 1414(b)(4); 34 C.F.R. § 300.306(a). Pursuant to District law, the timeframe will be reduced “[b]eginning July 1, 2017, or upon funding, whichever occurs later.” D.C. Code 38-2561.02(a)(2)(A); *see infra* para. 101.

256. The District applies the 120-day deadline to the eligibility determination. For example, in reporting to OSEP with regard to compliance with the timely evaluation requirement, the District reports the percentage of children who receive an eligibility determination within 120 days, stating, “The District of Columbia’s established timeline for evaluations is 120 days from referral to eligibility determination.” OSSE FFY 2013 Part B SPP/APR, Pls.’ Ex. 242, at DL2015 92–93; *see also* Proddutur Dep. 76:11–20, July 2, 2014, Pls.’ Ex. 18 (“[Q]: What statistics does the District prepare annually that relate to the timing of initial eligibility determinations? [A]: Actually, that is what I was talking about, initial evaluation, which the District does not have a separate timeline for eligibility determination and evaluation. It is one entity for eligibility determination. And it is the only metric that we measure.”).⁹

⁹ Since the District has not tracked the timeliness of initial evaluations, separate from eligibility determinations, for the applicable period, plaintiffs have not had data regarding the timeliness of initial evaluations. Accordingly, in opposition to the District’s motion for summary judgment, on November 21, 2014, plaintiffs stated:

Despite the injunction, the District has reported that it has not been tracking the percentage of preschool aged children that receive timely evaluations. Accordingly, plaintiffs have no data related to this benchmark. However, Sean Compagnucci, the Executive Director of Early Stages, testified that, on average, it takes about 60 days after the referral date to have the first assessments (as opposed to the completion of all assessments). That is, it takes the District half of the 120-day period to even get the family in the door to have the child assessed for the first time. Mr. Compagnucci testified that, with more staff, that time period could be reduced. As addressed below, the District’s practice of delaying assessments contributes to its failure to provide timely eligibility determinations.

257. This Court previously applied, and will again apply, the 120-day deadline to eligibility determinations. *See* Mem. Op. ¶¶ 116, 120, 123, ECF No. 294; Mem. Op. 2, 12, 19–20, ECF No. 444.

258. The Court previously held that, through April 6, 2011, the District failed to provide timely eligibility determinations in violation of the IDEA and District law. *See* Mem. Op. 16–18, 24 ECF No. 198 (through 2007); Mem. Op. ¶¶ 120, 123 (through Apr. 6, 2011); Mem. Op. 11, 13–14, 19–20, 42 ECF No. 444 (through Apr. 6, 2011, post-remand).

2. Measurement

259. Until recently, the District’s regulations stated that a child “shall be referred, in writing, to an IEP team” and that “[a] referral, which shall state why it is thought that the child may have a disability may be made by” a parent, the child (if older than the children at issue here), a professional staff employee of the LEA, or a staff member of a public agency who has direct knowledge of the child. 5-E D.C.M.R. § 3004.1(a), (b) (former regulation). That regulation also stated: “If the child to be referred attends a D.C. public school or is enrolling in a D.C. public school at the time this referral is made, this referral shall be submitted by his or her parent to the building principal of his or her home school, on a form to be supplied to the parent by the home school at the time of the parent’s request.” 5-E D.C.M.R. § 3004.1(c). Additionally, “if the child to be referred does not attend a D.C. public school and the parent does not register the child to attend a D.C. public school at the time the referral is made, this referral shall be submitted by the

Mem. in Opp’n to Defs.’ Mot. for Summ. J. 18, ECF No. 422 (citations omitted). The Court then granted summary judgment for the District on plaintiff subclass 2’s claim related to timely evaluations for the period after April 6, 2011, stating that “plaintiffs concede that they ‘have no data related to this benchmark.’” Mem. Op. 36, ECF No. 444. *See also* Order, Nov. 3, 2015, ECF No. 491 (clarifying the record).

parent to a site designated by the Superintendent on a form to be supplied to the parent by that site at the time of the parent's request." 5-E D.C.M.R. § 3004.1(d).

260. As discussed, the District does not consider referrals from non-parents to start the 120-day clock. *See supra* para. 104. This policy is misguided and contrary to the clear language of the IDEA. The District claims it initiated the policy "in response to negative feedback from parents who understandably resisted the creation of permanent special education records for their children without parental knowledge or consent." Defs.' Proposed Findings of Fact and Conclusions of Law ¶ 113 n.5. The District should of course keep parents completely informed of its activities, but this concern does not justify such a strained interpretation of the IDEA's statutory language. It is critical that children receive services as soon as possible.

261. On October 2, 2015, the relevant regulation was re-written and now reads:

- (a) A child suspected of having a disability who may need special education and is at least two years, eight months of age and less than twenty-two (22) years of age, shall be referred to an IEP team for an evaluation or assessment.
- (b) A referral for an evaluation or assessment for special education services may be oral or written. An LEA shall document any oral referral within three (3) business days of receipt.

5-E D.C.R.R. § 3004.1.

262. This regulation, which relates to the applicable state timeframe of 120 days from referral, comports with this Court's 2011 decision requiring the clock to start at the time of a written or oral referral from a parent or non-parent. Mem. Op. ¶ 149(b), ECF No. 294 ("Date of referral' is defined as the date on which defendants receive a written or oral request for assessment of a preschool child including the child's name and age, the parent's or guardian's name, mailing address or telephone number, and the basis for referral."). The regulation explicitly states that a referral can be written or oral and does not limit the source of a referral. 5-E D.C.M.R.

§ 3004.1(b); *see also* D.C. Code § 38-2561.02(a)(3). Accordingly, the District must start the 120-day time-period for an eligibility determination whenever the District receives a written or oral request for assessment, from a parent or non-parent, of a preschool-age child.

263. Based on paragraphs 157–161 of the above findings of fact, the District should have been applying a reasonable and fair parental delay policy, as described above. *See supra* para. 233.

3. Conclusion

264. Based on paragraphs 99–119 and 162–165 of the above findings of fact, the Court holds that, from April 7, 2011, to November 12, 2015 (the first day of the second trial), the District has failed to ensure that preschool-age children with disabilities in the District receive an eligibility determination within 120 days of referral, in violation of 20 U.S.C. § 1414(a)(1)(C), 20 U.S.C. § 1414(b)(4), 34 C.F.R. § 300.306(a), and D.C. Code § 38-2561.2(a).

E. SUBCLASS 4 IDEA CLAIM

1. Smooth and Effective Transition Claim

265. A state must have in effect policies and procedures to ensure that:

[c]hildren participating in early intervention programs assisted under [Part C], and who will participate in preschool programs assisted under [Part B], experience a smooth and effective transition to those preschool programs in a manner consistent with section 1437(a)(9) of [the IDEA]. By the third birthday of such a child, an individualized education program or . . . an individualized family service plan, has been developed and is being implemented for the child. The local educational agency will participate in transition planning conferences arranged by the designated lead agency

20 U.S.C. § 1412(a)(9); *see also* 34 C.F.R. §§ 300.124, 300.101(b).

266. As part of its annual application for Part C funding, a state must explain how:

(i) the families of such toddlers and children [exiting Part C] will be included in the transition plans . . . and (ii) the [Part C] lead agency . . . will (I) notify the local educational agency for the area in which such a child resides that the

child will shortly reach the age of eligibility for preschool services . . . ; [and] (II) . . . convene a conference among the [Part C] lead agency, the family, and the local educational agency not less than 90 days (and at the discretion of all such parties, not more than 9 months) before the child is eligible for the preschool services, to discuss any such services that the child may receive

20 U.S.C. § 1437(a)(9).

267. The Court has previously held that the District failed to comply with its obligation to ensure a smooth and effective transition for disabled children from Part C to Part B, in violation of the IDEA. Mem. Op. 20, ECF No. 198 (through 2007); Mem. Op. ¶ 126, ECF No. 294 (through Apr. 6, 2011); Mem. Op. 12–13, 19–20, 42, ECF No. 444 (through Apr. 6, 2011, post-remand).

2. Measurement

268. An IEP is not implemented until all special education and related services commence. *See supra* paras. 123–25. The Court previously concluded that “all services must commence for a transition to be smooth and effective.” Mem. Op. 39, ECF No. 444. Otherwise said, the District must be prepared to provide all services by the child’s third birthday. Of course, the District need not provide those services if, for example, the third birthday falls on a Sunday or the child is ill on his or her third birthday.

269. Based on paragraphs 120–142 and 162–165 of the above findings of fact, and the Court’s prior orders, a transition shall be considered “smooth and effective” if (1) the transition begins no less than 90 days prior to the child’s third birthday; (2) the child is provided with an IEP listing both the type of placement and a specific location for services by the child’s third birthday; (3) there is no disruption in services between Part C and Part B services (that is, all special education and related services in the child’s IEP must commence by the child’s third birthday); and (4) Part B personnel are involved in the transition process. Mem. Op. 25, ECF No. 389; Mem. Op. 39, ECF No. 444.

270. Based on paragraphs 157 to 161 of the above findings of fact, the District should have been applying a reasonable and fair parental delay policy. *See supra* para. 233. Also, the District should have been recording and tracking when children first receive each service required pursuant to an IEP. *See supra* para. 127.

3. Conclusion

271. Based on paragraphs 120–142, 147–152, and 162–165, of the above findings of fact, the Court holds that the District failed to have in effect policies and procedures to ensure that children receive a smooth and effective transition from Part C to Part B services, in violation of 20 U.S.C. § 1412(a)(9), 34 C.F.R. § 300.124, and 34 C.F.R. § 300.101(b).

F. REHABILITATION ACT CLAIMS

272. Section 504 of the Rehabilitation Act states that “no otherwise qualified individual with a disability in the United States . . . shall, solely by reason of her or his disability, be excluded from the participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance” 29 U.S.C. § 794(a). Section 504 further states that, “[f]or the purposes of this section, the term ‘program or activity’ means all of the operations of . . . a local educational agency . . . or other school system.” 29 U.S.C. § 794(b)(2)(B).

273. The implementing regulations for section 504 state that: “[a] recipient that operates a public elementary or secondary education program or activity shall provide a free appropriate public education to each qualified handicapped person who is in the recipient’s jurisdiction, regardless of the nature or severity of the person’s handicap.” 34 C.F.R. § 104.33(a).

274. The Court previously held that defendants may be liable under section 504 for violations of IDEA, if defendants show either “bad faith or gross misjudgment” in failing to

comply with their legal obligations. Mem. Op. 4, ECF No. 55. Specifically, defendants are required to “exercise[] professional judgment, in such a way as not to depart grossly from accepted standards among educational professionals.” *Id.* (citation omitted).

275. The Court previously found that “at least through and including the year 2007, defendants knew that their actions were legally insufficient, yet failed to bring themselves into compliance with their legal obligations, in violation of § 504 of the Rehabilitation Act, 29 U.S.C. § 794(a).” Mem. Op. 23, ECF No. 198. Indeed, “there [was] no genuine dispute that defendants knew, based on communications with OSEP, that they were not in compliance with their legal obligations, yet they failed to change their actions.” *Id.* In short, “defendants’ failures were a departure from accepted educational practices throughout the country,” and were sufficient to demonstrate “bad faith or gross misjudgment.” Mem. Op. 23, ECF No. 198.

276. Likewise, the Court previously held that, from 2008 to April 6, 2011, “the District of Columbia’s special education policies were a gross departure from accepted educational practices throughout the country,” and that “the District of Columbia knew that their actions were legally insufficient, yet failed to bring themselves into compliance with their legal obligations.” Mem. Op. ¶¶ 131–33, ECF No. 294. For this period as well, “defendants demonstrated bad faith or gross misjudgment, by knowingly failing to provide a FAPE to eligible preschool-age children and by failing to bring themselves into compliance with their Child Find obligations under IDEA, in violation of 29 U.S.C. § 794(a) of the Rehabilitation Act.” *Id.* After remand, the Court dismissed plaintiffs’ Rehabilitation Act claims for the period after March 22, 2010. Mem. Op. 42–43, ECF No. 444.

277. As discussed in the Court’s Memorandum Opinion issued on this date and referenced in paragraph 180, plaintiffs’ pre-2010 Rehabilitation Act claims are not moot—even

though the District's actions that gave rise to the harm are no longer ongoing—because the voluntary cessation exception to the mootness doctrine applies. The Court therefore has jurisdiction to reach the merits of these claims, and finds that each plaintiff subclass prevails.

278. Subclass 1. Based on paragraphs 175–199 of the above findings of fact, the Court holds that, until March 22, 2010, the District violated 29 U.S.C. § 794(a) of the Rehabilitation Act, because it demonstrated bad faith and gross misjudgment with regard to its FAPE and Child Find obligations. Its policies, procedures, and practices were a gross departure from accepted educational practices throughout the country, it knew that its actions were legally insufficient, and it knowingly failed to provide special education and related services to thousands of preschool-age children.

279. Subclass 2. Based on paragraphs 175–182 and 200–204 of the above findings of fact, the Court holds that, until March 22, 2010, the District violated 29 U.S.C. § 794(a) of the Rehabilitation Act, because it demonstrated bad faith and gross misjudgment with regard to its obligation to provide timely initial evaluations for special education and related services. Its policies, procedures, and practices were a gross departure from accepted educational practices, it knew that its actions were legally insufficient, and it knowingly failed to provide timely initial evaluations to over one thousand children.

280. Subclass 3. Based on paragraphs 175–182 and 205–207 of the above findings of fact, the Court holds that, until March 22, 2010, the District violated 29 U.S.C. § 794(a) of the Rehabilitation Act, because it demonstrated bad faith and gross misjudgment with regard to its obligation to provide timely eligibility determinations for special education and related services. Its policies, procedures, and practices were a gross departure from accepted educational practices,

it knew that its actions were legally insufficient, and it knowingly failed to provide timely eligibility determinations to over one thousand children.

281. Subclass 4. Based on paragraphs 175–182 and 208–215 of the above findings of fact, the Court holds that, until March 22, 2010, the District violated 29 U.S.C. § 794(a) of the Rehabilitation Act, because it demonstrated bad faith and gross misjudgment with regard to its obligation to provide smooth and effective transitions from Part C to Part B services. Its policies, procedures, and practices were a gross departure from accepted educational practices, it knew that its actions were legally insufficient, and it knowingly failed to provide smooth and effective transitions to many hundreds of children.

G. ENTITLEMENT TO DECLARATORY RELIEF

282. Declaratory relief is warranted when “there is a substantial controversy, between parties having adverse legal interests, of sufficient immediacy and reality” *Md. Casualty Co. v. Pac. Coal & Oil Co.*, 312 U.S. 270, 273 (1941); *see also Mova Pharm. Corp. v. Shalala*, 140 F.3d 1060, 1073 (D.C. Cir. 1998).

283. The Court previously stated the following:

[T]he Court holds that, from 2008 to April 6, 2011 (the first day of trial), there has been a substantial controversy of sufficient immediacy and reality due to defendants’ failure to identify, locate, evaluate, and offer plaintiffs a free appropriate public education and failure to ensure a smooth and effective transition from Part C to Part B for eligible preschool-age children in the District of Columbia.

Mem. Op. ¶ 135, ECF No. 294.

284. The Court then issued a declaratory judgment that the District violated the IDEA, District law, and the Rehabilitation Act. *Id.* at ¶¶ 136–37.

285. Based on the above findings of fact and conclusions of law, the Court again holds there has been a substantial controversy of sufficient immediacy and reality to issue a declaratory

judgment. *See also* accompanying Mem. Op. issued on this date, at 24–28. The Court therefore will issue a declaratory judgment that extends the holdings of its June 10, 2015 Memorandum Opinion, through November 12, 2015 (the first day of the second trial), and declares that the District violated the IDEA and District law by failing and continuing to fail to ensure that:

(a) All children between the ages of three and five, inclusive, who reside in the District, including children who are homeless or are wards of the District, who are in need of special education and related services, are identified for the purpose of offering special education services, are provided with a FAPE, and that a practical method is developed and implemented to determine which children with disabilities are currently receiving needed special education and related services, in violation of 20 U.S.C. § 1412(a)(3)(A) and 5-E D.C.M.R. 3002.1(d), 3002.3(a) (Child Find), and 20 U.S.C. § 1412(a)(1)(A) and 5- E D.C.M.R. 3001.1, 3002.1(a), (e) (FAPE).

(b) All children between the ages of three and five, who reside in the District, including children who are homeless or are wards of the District, receive an eligibility determination within 120 days of referral, in violation of 20 U.S.C. § 1414(a)(1)(C), 20 U.S.C. 1414(b)(4), 34 C.F.R. § 300.306(a), and D.C. Code 38-2561.2(a); and

(c) All children who receive Part C early intervention services and are eligible for and choose to receive Part B services receive a smooth and effective transition to Part B services by their third birthdays, in violation of 20 U.S.C. § 1412(a)(9), 34 C.F.R. § 300.124, and 34 C.F.R. § 300.101(b).

H. ENTITLEMENT TO INJUNCTIVE RELIEF

286. A plaintiff seeking a permanent injunction must demonstrate that “(1) that it has suffered an irreparable injury; (2) that remedies available at law, such as monetary damages, are inadequate to compensate for that injury; (3) that, considering the balance of hardships between the plaintiff and defendant, a remedy in equity is warranted; and (4) that the public interest would not be disserved by a permanent injunction.” *Monsanto Co. v. Geertson Seed Farms*, 561 U.S. 139, 156–57 (2010).

287. First, as described above, the Court has again found the District liable for violating the IDEA, its implementing regulations, and District law. The Court again finds that these

violations result in irreparable injury to all eligible children between the ages of three and five years old, inclusive, who reside in the District, including children who are homeless or are wards of the District, and whom the District did not identify, locate, evaluate, or offer special education and related services to, or for whom the District did not timely issue eligibility determinations or smooth and effective transitions from Part C to Part B services. Without access to and timely receipt of special education and related services, preschool-age children in the District suffer substantial harm by being denied educational opportunities that are essential to their development.

288. Second, there are no adequate existing remedies. The District argues that plaintiffs have not shown a systemic violation that could justify injunctive relief and that, if any individual children's rights were violated, "the remedy for those issues is to file a due process complaint and follow the administrative remedy procedures set out in the IDEA itself." Trial Tr., Nov. 16, 2015, 77:3–11. However, since the violations described above affect at least hundreds of children annually, *see supra* paras. 83–84, 111–16, 140, they are appropriately addressed through injunctive relief. Moreover, administrative relief would have little if any value to a child that is not identified. *See J.S. ex rel. N.S. v. Attica Cent. Schs.*, 386 F.3d 107, 114 (2d Cir. 2004) (describing claims of systemic IDEA violations that could not be remedied through the administrative hearing process); *Cordero by Bates v. Pa. Dept. of Educ.*, 795 F. Supp. 1352, 1362–63 (M.D. Pa. 1992) (ruling that an injunction was appropriate to address systemic flaws).

289. Third, the balance of hardships strongly supports injunctive relief. An injunction requiring the District to do nothing more than comply with its legal obligations cannot, by definition, harm it. *See Haskins v. Stanton*, 794 F.2d 1273, 1277 (7th Cir. 1986). Indeed, the District contends that it has already complied with the vast majority of the programmatic

requirements below. *See* Defs.’ Proposed Findings of Fact and Conclusions of Law ¶¶ 71–83 (detailing the ways in which the District has “implemented each of the recommended policy and procedural changes specified in the Court’s 2011 Order”); Trial Tr., Freund Test., Nov. 16, 2015, 51:16–23, *id.* at 75:2–76:21 (referencing District’s counsel); *see also* 2015 Freund Direct ¶ 10.

290. Fourth, the Court again finds that the public interest will be served by compelling the District to provide special education and related services, and access thereto, in accordance with applicable law. Congress enacted the IDEA to “ensure that all children with disabilities have available to them a free appropriate public education that emphasizes special education and related services designed to meet their unique needs . . . [and that] the rights of children with disabilities . . . are protected.” 20 U.S.C. § 1400(d)(1). In the words of the Court of Appeals for the Seventh Circuit: “We . . . fail to see how enforcing a statute designed to promote the public welfare disserves the public.” *Haskins*, 794 F.2d at 1277; *see also Massey v. District of Columbia*, 400 F. Supp. 2d 66, 76 (D.D.C. 2005) (“Prior decisions by this Court have made clear that the relevant public interest is that of the students. The public interest lies in the proper enforcement of . . . the IDEA.” (citation omitted)); *Petties v. District of Columbia*, 238 F. Supp. 2d 114, 125 (D.D.C. 2002). Therefore, plaintiffs satisfy the four-part test.

291. The District contends that its system is improved. Its witnesses appear to be committed to making continued improvements; however, despite the recent efforts of its staff, non-compliance persists, as OSEP determined the District “needs intervention” for the ninth consecutive year. As such, the Court cannot find “clear proof of an intent to permanently alter or abandon [its] ongoing failure to provide special education and related services to preschool-age children.” Mem. Op. ¶ 141, ECF No. 294. Even taking into account its recent improvement, the District has not yet satisfied federal and District law.

292. As the District has yet to attain a period of sustained compliance, this Court has concerns about the long-term stability of the District's programs. Over ten years have passed since this lawsuit was filed (many more since OSEP began identifying the District's problems), and many hundreds of children are still not receiving or timely receiving their special education and related services. In addition:

- There was a nearly two-year decline in the District's enrollment percentage, *see supra* para. 85, which the District did not appear to be aware of or concerned about. *See* Maisterra Dep. 357:4–359:21, July 2, 2014, Pls.' Ex. 18 ([Q]: Well, the percentage has been falling for nearly the last year, hasn't it? [A] I don't believe so. . . “);
- Based on the data reported to OSEP, which is also falling, the District is serving 6.19% of its preschool-age population, which is essentially equal to the national average, even though, based on its risk factors, it should be serving many more children. *See supra* paras. 96–98;
- Prior to the previous trial, the District set a goal to reduce the timeline for eligibility determinations to 60 days but, by 2014, Mr. Compagnucci had not considered what would be necessary to do that and the District still brings large numbers of children in for their first assessment after 60 days have elapsed. *See supra* para. 117; Compagnucci Dep. 69:4-7, June 3, 2014, Pls.' Ex. 16 (“For the last year, the average amount of time between a referral and when the family came into the center was 60–right around 60 days.”); Family Care Manual, Pls.' Ex. 72, at 17 (“The Early Stages internal goal is for each assessment to be scheduled within 10 days of the initial referral. At this time, given the high volume of referrals to the center, our more realistic goal is to schedule an evaluation within 60 days of referral.”);
- There are material inconsistencies in the District's documents and practice: inconsistency between the District's use of annual census estimates for this case and elsewhere, *see supra* paras. 94–95, and the District's documents and representatives state that services should begin by the third birthday but it argues that related services do not need to do so. *See supra* paras. 126, 128, 173; and
- As of the most recent assessments, OSEP continued to find OSSE noncompliant, and OSSE continued to find DCPS noncompliant. *See supra* paras. 166–71.

293. For all of these reasons, the Court permanently enjoins the District from further violations of IDEA and District law, and directs the following corrective actions. These injunctive requirements are similar to the requirements that issued in 2011.

I. NUMERICAL INJUNCTIVE REQUIREMENTS

1. Subclass 1

294. The District shall ensure that at least 8.5% of children between the ages of three and five years old, inclusive (hereafter, “preschool children”), who reside in or are wards of the District, are enrolled in special education and related services under Part B or extended Part C services.

295. Until 8.5% is reached, the District shall increase the percentage of preschool children in the District enrolled in Part B or extended Part C services by 0.5% in the first full year, starting on the first of the next month after the date of this Order, and an additional 0.5% in each subsequent year.

296. A child shall be considered “enrolled” on the date that he or she began receiving all of the special education and related services identified in his or her IEP or, if receiving extended Part C services, all of the services identified in his or her IFSP, including the required educational component. *See supra* para. 250. The District shall record and track when children first receive each service (including special education and related services) required pursuant to an IEP or extended IFSP. *See id.*

297. The District’s enrollment percentage shall be calculated by dividing the number of preschool children enrolled by the number of preschool children in the District, as reported in the most recent annual census estimate prepared by the U.S. Census Bureau’s Population Estimates Program, except in the years for which the decennial census results are issued, in which case the enrollment percentage should be calculated by dividing the number of preschool children enrolled by the decennial census results. *See supra* para. 251.

2. Subclass 3

298. The District shall ensure that at least 95% of all preschool children referred for Part B services receive a timely eligibility determination.

299. Until 95% is reached, the District shall increase the percentage of preschool children referred for Part B services who receive a timely eligibility determination by 10% in the first full year, starting on the first of the next month after the date of this Order, and an additional 5% in each subsequent year.

300. An eligibility determination shall be considered timely if it is completed within the period then-prescribed by federal and local law. According to District law that is currently applicable, the District has 120 days from the date of referral to make an eligibility determination.

301. “Date of referral” is defined as the date on which the District receives a written or oral request for assessment of a preschool child. That referral may be made by a parent or a non-parent such as a pediatrician or an LEA employee. *See supra* para. 262.

302. The District shall revise its parental delay policy so that it uses common sense and fairness to determine when any delay should be attributed to the LEA and when any delay should be attributed to the parent, consistent with 34 C.F.R. § 300.301(d)(1) (“The timeframe described in paragraph (c)(1) of this section does not apply to a public agency if—(1) The parent of a child repeatedly fails or refuses to produce the child for the evaluation.”). For example, the parental delay rules shall not allow attempts at parent contact that are clearly ineffective, such as repeat calls to a disconnected telephone number, to count towards meeting the minimum number of attempts at contact. The revised rules shall account for both delays by the LEA in attempting to contact the parent and in parental responsiveness, all of which should be documented. *See supra* paras. 157–61, 233, 263.

3. Subclass 4

303. The District shall ensure that at least 95% of all Part C graduates that are found eligible for Part B receive a smooth and effective transition by their third birthdays.

304. Until 95% is reached, the District shall increase the percentage of smooth and effective transitions by 10% in the first full year, starting on the first of the month following the date of this Order, and an additional 5% in each subsequent year.

305. A transition shall be considered “smooth and effective” if (1) the transition begins no less than 90 days prior to the child’s third birthday; (2) the child is provided with an IEP listing the services that are to be provided and both the type of placement and a specific location for services by the child’s third birthday; (3) there is no disruption in services between Part C and Part B services (that is, all special education and related services in the child’s IEP must commence by the child’s third birthday); and (4) Part B personnel are involved in the transition process. *See supra* para. 269.

306. Accordingly, the District’s policy and goal shall be to provide all special education and related services on the child’s third birthday. However, to avoid dispute regarding delays caused by weekends or holidays, and to address the District’s concerns regarding the practical difficulties in commencing related services by the child’s third birthday, the District may report that there was no disruption in services as long as (1) all of the child’s special education services begin on the child’s third birthday or, if that is a weekend or holiday, on the first school day after the child’s third birthday (which, in the case of a child whose birthday falls during the summer and qualifies for ESY services, will be ESY services), and (2) all related services should begin within 14 days of the child’s third birthday (unless that period is within the summer and the child does not qualify for related services as part of his or her ESY services, in which case within 14

days of the first day of school after the summer). *See supra* paras. 128–36. The District shall record and track when children first receive each service (including special education and related services) required pursuant to an IEP. *See supra* para. 270.

307. The District shall revise its parental delay policy as described above. *See supra* paras. 270, 302.

J. PROGRAMMATIC REQUIREMENTS

308. The Court issued the programmatic requirements described in this paragraph following trial in 2011 based upon the facts that were found at that time. Mem. Op. ¶¶ 151–65, ECF No. 294; Order 323. The District shall satisfy, or continue to satisfy or exceed, the following programmatic requirements. *See* 2015 *Dunst Direct* ¶ 166.

a. The District shall maintain and regularly update a list of primary referral sources, including physicians, hospitals, and other health providers; day care centers, child care centers, and early childhood programs; District departments and agencies; community and civic organizations; and advocacy organizations. The District shall also develop a system to track frequency of contacts with the referral sources to ensure that outreach occurs on a regular basis.

b. The District shall develop and publish printed materials targeted to parents and guardians that inform them of the preschool special education and related services available from DCPS, the benefits and cost-free nature of these services, and how to obtain the services. These materials shall be written at an appropriate reading level and be translated into the primary languages spoken in the District. These materials shall be distributed to all primary referral sources (*e.g.*, medical professionals and child care staff), public and public charter schools, public libraries, Income Maintenance Administration Service Centers, public recreation

facilities, and other locations designed to reach as many parents or guardians of preschool children who may be eligible for special education and related services as possible.

c. The District shall develop, publish, and distribute tailored printed materials targeted at primary referral sources to inform them of the preschool special education and related services available from DCPS, the benefits and cost-free nature of these services, and how to make a referral. These materials shall be used in conjunction with regular contacts with primary referral sources to increase the usefulness of the materials.

d. The District shall ensure that Early Stages outreach staff (*e.g.*, the Child Find Field Coordinators) contact primary referral sources or a staff member in the primary referral source's office who are instrumental in making referrals at least once a month until a referral relationship is established and then every three months thereafter. The initial meeting shall be face-to-face whenever possible when pursuing referrals from new referral sources and then less frequently thereafter, using the method of contact preferred by the referral sources (*e.g.*, e-mail, texting, or telephone calls).

e. The District shall accept both oral and written referrals at the start of the eligibility determination process, make multiple attempts using different forms of communication (*e.g.*, telephone, postal mail, and e-mail) to contact the parent or guardian of a referred child, and, upon obtaining consent of the parent or guardian, provide feedback to the referral source regarding the outcome of the referral in a timely manner.

f. The District shall assign each family served by Early Stages a single staff member to act as its "case manager" throughout the screening, evaluation, eligibility determination, and IEP process to ensure that families have the necessary information to understand the purposes and functions of all aspects of the Early Stages process and procedures.

g. The District shall maintain a central location that: accepts formal and informal referrals; conducts initial meetings, screenings, assessments, eligibility determinations, IEP development, and offers of placement; and permits parents to register their child with DCPS.

h. The District shall regularly assess the need for and, as necessary, open additional satellite sites to perform the same functions in other wards or use a mobile evaluation unit that is able to perform these functions at multiple locations throughout the District as more children are located who may be in need of preschool special education.

i. The District shall conduct regular screenings of preschool-age children in each ward of the District, and especially in wards in which children experience multiple risk factors.

j. The District shall use existing data (*e.g.*, medical records and reports of prior assessments) at the time of referrals to the extent possible, especially for children from Part C to Part B services, to eliminate unnecessary and duplicative screenings and assessments for eligibility determination purposes.

k. The District shall accept all children exiting Part C who have identified disabilities or significant developmental delays as presumptively eligible for Part B in order to ensure that they do not experience a disruption in services. Presumptively eligible for preschool education means that the information available at the time of the referral of a child—when he or she is nearly three years old and is about to transition from Part C to Part B—shall be presumed to be sufficient to make a decision about the child's eligibility for Part B special education services, unless indicated otherwise by the Part B IEP Team. The Part B IEP Team may find, after reviewing the information available at the time of the referral of the child, that additional data is needed in order to make an eligibility determination. If the Part B IEP Team

finds that additional data is needed in order to make an eligibility determination, the child may not begin receiving Part B services prior to an evaluation to determine the child's eligibility for such services. In all cases, including where the existing data are sufficient and where the Part B IEP Team determines that additional data are needed, defendants shall ensure that the Part B eligibility determination is completed prior to the child's third birthday, so that children eligible for Part B special education and related services experience no disruption in the receipt of services.

l. The District shall maintain a reliable data-sharing system between Part C and Part B to ensure that Early Stages receives an ongoing monthly report of all children who will be aging out of Part C within the following six months in order to ensure timely transition meetings.

m. The District shall maintain a reliable database system for tracking children through the Child Find process: from referral to eligibility determination and, if eligible, IEP development, placement, and provision of identified services.

n. The District shall maintain a reliable system for tracking the number and type of placements available for preschool special education and related services throughout the year and expanding the number and types of placement as needed.

309. The District shall also satisfy the following programmatic requirements:

- a. The District shall develop and apply consistent operational definitions for each of the numeric benchmarks.
- b. The District shall understand and ensure that its staff understand the purpose of the benchmarks and the IDEA requirements so that it can comply with them.

- c. The District shall improve its data collection policies so that reporting can be accurate.
- d. The District shall collect the necessary data to indicate when all services begin, including special education and related services.

See 2015 Dunst Direct ¶ 166.

K. MODIFICATION OF THE INJUNCTION

310. The numerical requirements for the percentage of preschool children enrolled in Part B set forth in paragraphs 294–295 above may only be modified by order of the Court upon a showing that 8.5% does not accurately reflect the number of preschool children who reside in the District, including children who are homeless or are wards of the District, that the District should expect to enroll through an effective Child Find system.

311. The programmatic requirements set forth in paragraphs 308–309 above may be modified by order of the Court. In order to obtain modification by order of the Court, the District must show that another action, to be substituted for the requirement that the District wishes to modify, would be at least as effective.

L. REPORTING

312. Every year, the District shall provide an annual report to plaintiffs and the Court regarding its compliance with the numerical requirements set forth in paragraphs 294–307 above. With regard to the enrollment percentage, the District shall provide the percentage for each month of the prior year, the numerator and denominator for each of those months, and the monthly spreadsheets from which those results are calculated, with any child-identifying information redacted. With regard to the eligibility determination and transition statistics, the

District shall provide the data over that year and the District's spreadsheets which show the calculations that yielded those statistics, with any child identifying information redacted.

313. Every six months, the District shall provide reports to plaintiffs and the Court regarding their compliance with the programmatic requirements set forth in paragraphs 308 and 309 over the prior six months.

314. For purposes of these reporting requirements, and the termination provisions below, months and years shall be calculated as follows: the first month and year shall start on the first of the next month following the date of the Court's order and subsequent months and years shall start on the anniversary of the first month following the date of the Court's Order. Reports shall be filed within 30 days after the expiration of the period to which the report relates.

M. TERMINATION OF THE INJUNCTION

315. This order shall remain in effect until the District has demonstrated sustained compliance with the numerical requirements set forth in paragraphs 294–307 above (8.5% of preschool children enrolled in special education and related services, 95% of preschool children receive timely eligibility determinations, and 95% of children receive smooth and effective transitions). The period of sustained compliance shall begin after the District, during a single year ("the baseline year"), meets or exceeds all three numerical requirements. Following the baseline year, the District may show sustained compliance:

a. In two years if, in the year following the baseline year (Year 1), the District increases the percentage of preschool children enrolled in Part B to at least 9.5% and meets or exceeds the other two numerical requirements and, in the subsequent year (Year 2), the District increases the percentage of preschool children enrolled in Part B to at least 10.5% and meets or exceeds the other two numerical requirements; or

b. In three years if, in the three years immediately following the baseline year (Years 1, 2, and 3), the District meets or exceeds all three numerical requirements.

316. If the District fails to meet any of the numerical requirements in Years 1, 2, or 3, the District must establish a new baseline year of compliance before being able to show sustained compliance.

317. The programmatic requirements set forth in paragraphs 308–309 above shall not terminate until the numerical requirements set forth in paragraphs 294–307 above are satisfied.

N. ATTORNEYS' FEES AND EXPENSES

318. Plaintiffs have prevailed on both IDEA and Rehabilitation Act claims. Pursuant to 20 U.S.C. § 1415(i)(3)(B)(i)(I) (IDEA) and 20 U.S.C. § 794a(b) (Rehabilitation Act), the District shall pay plaintiffs' reasonable attorneys' fees and related nontaxable expenses associated with litigating this suit.

319. Pursuant to Federal Rule of Civil Procedure 54(d)(2), plaintiffs' claim for attorneys' fees and related nontaxable expenses must be made by a motion and submitted to this Court no later than 14 days, herein, or in accordance with a timeframe set in a separate court order.

IV. CONCLUSION

For the reasons stated above, the Court finds the District liable for violating the IDEA, District law, and the Rehabilitation Act, and that plaintiffs are entitled to the above-specified declaratory and injunctive relief. Unlike in 2011, the plaintiffs of each subclass are bound together by “a single or uniform policy or practice.” *DL v. District of Columbia*, 713 F.3d 120, 127 (D.C. Cir. 2013). As discussed, the District has separately and specifically failed to (1) identify substantial numbers of children who are in need of special education and related

services, (2) timely evaluate children for special education and related services,¹⁰ (3) timely issue eligibility determinations for special education and related services, and (4) provide smooth and effective transitions for children from Part C to Part B services.

The Court acknowledges the good faith efforts and reforms the District has undertaken to come into compliance with IDEA's requirements to identify disabled children, timely evaluate them, perform eligibility determinations, and provide smooth and effective transitions from Part C to Part B. Even the best of intentions, however, will not bring a state or jurisdiction into compliance with the IDEA's affirmative obligations. Indeed, compliance hinges on results, and the plaintiffs' largely un rebutted, outcome-driven analysis shows that the District does not have effective policies in place to satisfy the specific legal obligations owed to each member of the three subclasses at issue.

The most that the defendants do to counter the plaintiffs evidence is argue that plaintiffs are applying the wrong set of assumptions, arguments which this Court has rejected.¹¹ Moreover, defendants argue that the statistics they present are consistent with the "business rules" and are in line with the statistical and reporting criteria for the IDEA commonly used in other states. *See* Defs.' Proposed Findings of Fact and Conclusions of Law ¶ 68 ("T]he District's practices with regard to OSEP reporting are aligned with other jurisdictions, and [] in most cases, the District sets a higher bar." (quotations omitted)). Even if that were true, at best, it would demonstrate that other states are jurisdictions may also be violating the IDEA. In light of plaintiffs' child-specific, results-oriented evidence, this argument does nothing to shield the District from liability—it

¹⁰ This statement of course relates to the Court's previous finding that subclass 2 prevailed on its claims for the period up to April 6, 2011.

¹¹ *See supra* para. 260 (rejecting the defendants' argument that the 120-day clock should not start when a non-parent submits a referral); *see supra* paras. 268–69 (rejecting the defendants' argument that not all Part B services need to be delivered by the child's third birthday).

could only show that liability is perhaps more widespread in other states and jurisdictions than is commonly thought.

The District's lack of effective Child Find and transition policies is particularly troubling in light of the intense scrutiny and seemingly constant admonishment it has received over the last decade. In 2011, this Court stated, "Defendant's persistent failure to live up to their statutory obligations, a failure that works a severe and lasting harm on one of society's most vulnerable populations—disabled preschool children—is deeply troubling to this Court." Mem. Op. & Findings of Fact and Conclusions of Law 44–45, ECF No. 294. Moreover, as discussed, OSEP informed OSSE in 2015 that it "needs intervention in implementing the requirements of Part B of the IDEA" for the "ninth consecutive year," which is the longest period in the country. Letter from OSEP to OSSE, June 30, 2015, Pls.' Ex. 243, at 1, 4–8. Although OSEP's long-running "needs intervention" determination does not deal exclusively with the statutory obligations at issue in this litigation, it contributes to the overarching narrative that the District requires strong, outside involvement to produce even minimally acceptable results. And critically, this litigation has been ongoing for more than ten years, providing the District with ample time and robust incentives to come into full compliance with the law. It is for these reasons that a structural injunction is necessary.

It is true that the Court's present focus and analysis has shifted from the original 2011 trial. That trial focused mainly on the structure and design of the District's policies and practices themselves. Importantly, the plaintiffs' evidence at that time looked only to the plain results of the District's self-reported statistics. In this trial, the Court continued to analyze and note the structural defects in the District's official policies, but went one step further by examining the District's self-reported data to evaluate the actual results that the District's policies produced.

Considering this shift in emphasis, the Court believes that defendants should be given another chance to bring the District into compliance with the Court's more results-oriented approach before more intrusive Court involvement—e.g., the appointment of a special master or monitor—is determined to be necessary.

The District has come a long way since 2005 when this lawsuit was initiated, but it has not come far enough. Indeed, while its progress has been in some ways impressive, the District started at such a low base that the advances it has made are insufficient to bring it into compliance with its legal obligations. The Court today makes clear that the implementation and outcomes of the District's policies are paramount. The District will comply with its statutory obligations when it actually locates and identifies children to provide them with a FAPE, timely evaluates them, timely determines their eligibility, and smoothly and effectively transitions them—not when they establish policies that, if properly implemented, would achieve these goals. If the defendants fails to abide by the order and adopt a more outcome-based approach, the District will earn far more significant court involvement and oversight than is ordered today.

The separate Order issued on May 18, 2016 is consistent with these corrected findings of fact and conclusions of law.



Royce C. Lamberth
United States District Judge

Date: 6/21/16

UNITED STATES DISTRICT COURT
 FOR THE DISTRICT OF COLUMBIA

Plaintiffs' Exhibit
1
 Civ. No. 05-1437 (RCL)

DL, <i>et al.</i> , on behalf)	
of themselves and all others)	
similarly situated,)	
)	
Plaintiffs,)	Civil Action No. 05-1437 (RCL)
)	
v.)	
)	
THE DISTRICT OF COLUMBIA,)	
<i>et al.</i> ,)	
)	
Defendants.)	
)	

AFFIDAVIT OF BRUCE J. TERRIS

1. I am a partner in the Washington, D.C., law firm of Terris, Pravlik & Millian, LLP (hereafter “Terris, Pravlik & Millian” or “TPM”). Since 2005, the firm has served as lead counsel in this class action.

2. I offer this affidavit in support of plaintiffs’ Motion for an Award of Litigation Costs, Including Attorneys’ Fees and Related Expenses, filed contemporaneously with this affidavit. In that motion, plaintiffs request fees and expenses for work up to and including June 22, 2016, and have separated that work into two periods: Period 1 and Period 2.

3. Period 1 refers to work performed through November 16, 2011, the date of the Court’s decision after the first trial (ECF No. 294). On April 30, 2012, plaintiffs filed their Motion for an Award of Litigation Costs, Including Attorneys’ Fees and Related Expenses (ECF No. 325), requesting payment for work performed during Period 1. That motion was fully briefed. On reply, plaintiffs made certain concessions in response to the arguments of defendants (“the District”) and therefore requested a smaller award than they had requested in their initial motion. *See* Reply Memorandum in Support of Plaintiffs’ Motion for an Award of Litigation Costs, Including Attorneys’ Fees and Related Expenses, dated October 5, 2012 (ECF No. 348),

p. 35. This Court did not rule on that motion while the District's appeal was pending and, after the case was remanded by the court of appeals on class certification grounds, this Court denied plaintiffs' motion without prejudice to refile. *See* Memorandum Order, dated June 11, 2013 (ECF No. 366). To avoid confusion and additional work for the District, plaintiffs have divided their fee application into Period 1 and Period 2, and have endeavored to change as little as possible regarding their Period 1 application and the related exhibits.¹

4. Plaintiffs have incorporated into this current Period 1 request all reductions that were made on the previous reply brief.² Plaintiffs have also made other reductions to their Period 1 fees and expenses, which are identified below (para. 33) and in the accompanying affidavits of Jeffrey Gutman and Margaret Kohn. Nonetheless, plaintiffs' request for Period 1 is higher than it was as of the 2012 application because plaintiffs seek compensation based on current hourly rates for that work (*see* para. 84 below), which are higher in 2016 than they were in 2012.³

5. Period 2 refers to work performed from November 17, 2011, through June 22, 2016. Plaintiffs excluded from Period 2 work that preceded June 22, 2016, but that relates to (1) this fee application (for example, briefing related to the fee application schedule), or (2) preparation for the pending appeal. Plaintiffs intend to move for fees and expenses related to that work in the future.

¹ Where plaintiffs have attached to this application an exhibit that corresponds to an exhibit that was submitted with the earlier briefing, plaintiffs have, in their exhibit list accompanying their memorandum, identified the docket number from the earlier briefing.

² Since those are reductions, and to limit the volume of this application, plaintiffs have not discussed herein the basis for those reductions.

³ In addition, during Period 1, plaintiffs mistakenly billed the 17.134 hours of time for attorney Jane Liu at the paralegal rate. That has been corrected to the rate corresponding to her appropriate experience category at the time, which was 4-7 years of experience.

TIME RECORDS AND EXHIBITS

6. The fees and expenses for Periods 1 and 2 are explained in greater depth below and in exhibits cited throughout the application and its accompanying documents. To assist the Court and the District, I have listed here the exhibits that relate to TPM's Period 1 time and expenses and Period 2 time and expenses.

(a) Plaintiffs' Exhibit 4 is a summary of all of the fees and expenses sought by plaintiffs. It provides subtotals for fees and expenses for Period 1 for TPM and co-counsel, the fees and expenses for Period 2 for TPM and co-counsel, and the totals for Periods 1 and 2.

(b) For Period 1, the summary of TPM time by billing category is provided in Plaintiffs' Exhibit 5,⁴ the contemporaneous time records for TPM attorneys and paralegals are provided in Plaintiffs' Exhibit 6, TPM "No Charge" time records are provided in Plaintiffs' Exhibit 7, the summary of TPM expenses is provided in Plaintiffs' Exhibit 8, the summary of reductions made to TPM's fees and expenses that were made previously on reply (*see* para. 4 above) is provided in Plaintiffs' Exhibit 9, and information related to additional reductions made to TPM's fees and expenses is provided in Plaintiffs' Exhibit 10.

(c) For Period 2, the summary of TPM time by billing category is provided in Plaintiffs' Exhibit 11, the contemporaneous time records for TPM attorneys and paralegals are provided in Plaintiffs' Exhibit 12, TPM "No Charge" time records are provided in Plaintiffs' Exhibit 13, and the summary of TPM expenses is provided in Plaintiffs' Exhibit 14.

7. TPM uses computerized timekeeping software to track the time expended by individuals and the expenses associated with a particular case. That software was used for the

⁴ Plaintiffs' exhibits, such as exhibit 5, which identify time billed by TPM attorneys and paralegals, identify the timekeepers' initials, rather than full names (*e.g.*, JL or JML rather than Jane Liu). Those initials and the corresponding names, positions at TPM, year of law school graduation, years of experience, and corresponding rates are provided in Plaintiffs' Exhibit 2.

time and expenses presented in this application, and to generate the data presented in the exhibits in support of this application. The organization of those exhibits is described below (paras. 35-38 (Period 1) and 71-78 (Period 2)).

ATTORNEYS

8. Terris, Pravlik & Millian is a public interest law firm that handles cases in areas of the law where people traditionally have not been represented. Approximately 95 percent of the firm's work is done without charge to the client or the client pays for only a small proportion of the work and expenses based on the hope that the client will prevail and attorneys' fees will be awarded by the court or will be received in settlement. When the firm does charge its clients, it charges far below market rates to enable individuals who would otherwise not be able to afford legal representation to obtain it. The firm, therefore, does not have billing rates that reflect the value of its attorneys' services in the marketplace. *See SPIRG v. AT&T Bell Laboratories*, 842 F.2d 1436, 1442 (3d Cir. 1988); *see also Salazar v. District of Columbia*, 809 F. 3d 58, 64-65 (D.C. Cir. 2015) (in affirming fee awards based on prevailing market rates from the LSI *Laffey* Matrix, the court of appeals necessarily determined that TPM does not have rates that reflect the value of its services in the marketplace). TPM has always represented plaintiffs in this case on an entirely contingent basis for all of our fees and expenses—that is, we would only receive compensation if we prevailed and we therefore received payment from the District.

9. TPM, which has 11 attorneys, engages almost exclusively in litigation in the areas of poverty, employment, civil rights, and environmental law. Although our firm is located in Washington, D.C., we frequently litigate complex federal cases in other states. TPM routinely encounters other Washington, D.C., counsel as its adversaries in other states. TPM has extensive experience litigating complex class actions in federal courts. *See, e.g., Palmer v. Kissinger*, D.D.C., Civ. Nos. 76-1439, 77-2006 (class action challenging the sexually discriminatory

employment practices of the Department of State; filed in 1976 and closed in 2009); *Salazar v. District of Columbia*, D.D.C., Civ. No. 93-452 (class action challenging the District's failure properly to deliver Medicaid services; filed in 1993 and currently ongoing).

10. Many TPM attorneys have worked on this litigation since it has been pending for over 11 years. I worked on this case from the outset and provided legal guidance, took many depositions, and was lead counsel at both trials. In addition, this case was staffed at any given time primarily by one or two other attorneys, who handled the day-to-day work of the case. The attorney or attorneys that handled the day-to-day work on the case changed when such attorneys left TPM. These primary attorneys are listed below in the order in which they worked on the case.⁵

(a) I am a 1957 graduate of Harvard Law School, *magna cum laude*, where I was Articles Editor of the Harvard Law Review. I have practiced law for over 50 years, including 7 years in the Office of the Solicitor General where I drafted or edited approximately 70 briefs on the merits in the Supreme Court. I have also presented 20 oral arguments to the Supreme Court. I was one of the founders of both the Legal Services Program in the original Office of Economic Opportunity and the Center for Law and Social Policy, one of the country's first major public interest law firms.

(b) Shina Majeed graduated from New York University School of Law, *cum laude*, in 2000, where she served as Senior Articles Editor for the New York University Review of Law and Social Change. Before joining the firm as an associate in February 2005, Ms. Majeed was a clerk to the Honorable Gladys Kessler of the United States District Court for the District of

⁵ The resumes for all of the TPM attorneys described herein, as of now or as of the time that they were previously with the firm, are attached in alphabetical order by last name as Plaintiffs' Exhibit 3.

Columbia and a Skadden Law Fellow at the Urban Justice Center in New York City and the Legal Aid Society for the District of Columbia. She joined the firm as an associate in February 2005, where her practice focused primarily on this case. She left the firm in September 2007.

(c) Emily A. Benfer earned her J.D., *cum laude*, from Indiana University School of Law. Prior to joining the firm as an associate in September 2007, Ms. Benfer was an Equal Justice Works Fellow at the Washington Legal Clinic for the Homeless. Ms. Benfer's practice at the firm focused primarily on this case. She left the firm in April 2008.

(d) Alexander R. Karam graduated from Columbia University School of Law in 2004, where he served as Articles Editor for the Columbia Law Review. Before joining the firm as an associate in September 2007, Mr. Karam was a judicial clerk to the Honorable Frederic Block of the United States District Court for the Eastern District of New York and a staff attorney at Sanctuary for Families, a domestic violence agency in New York City. His practice focused on complex litigation, including this case and another class action brought against the District of Columbia on behalf of Medicaid beneficiaries. He left the firm in May 2011.

(e) Ehsan Tabesh graduated from the University of Virginia School of Law in 2010, where he served as an Editorial Board Member of the Virginia Journal of Social Policy & the Law. Before joining the firm as an associate in March 2011, Mr. Tabesh was a Public Interest Fellow at the District of Columbia Office of the Attorney General. Beginning after the first trial, he was assigned the day-to-day responsibilities of this case. He left the firm in July 2012.

(f) Jane M. Liu graduated from the University of Pennsylvania Law School in 2005. Before joining the firm as an associate in December 2008, Ms. Liu was a staff attorney for the Public Defender Division of the Committee for Public Counsel Services in Boston, Massachusetts. Her practice at TPM focused on complex litigation, including work on this case

and two class actions brought against the District of Columbia on behalf of Medicaid beneficiaries. She took the lead on the appeal and handled other matters for this case. She took a leave of absence in July 2015 and left the firm in March 2016.

(g) Todd A. Gluckman graduated from Cornell Law School, *cum laude*, in 2005, where he served as an Articles Editor for the Cornell International Law Journal. Before joining the firm, Mr. Gluckman was a clerk to the Honorable Frederick J. Martone of the United States District Court for the District of Arizona and an associate at White & Case LLP. Mr. Gluckman joined the firm in March 2011. Mr. Gluckman has handled most of the day-to-day responsibilities of this case on remand from the court of appeals.

(h) Lauren E. Seffel graduated from Harvard Law School, *cum laude*, in 2010, where she served as Book Review Editor for the Journal of Law and Gender. Before joining the firm as an associate in July 2013, Ms. Seffel was a clerk to the Honorable R. Malcolm Graham of the Massachusetts Appeals Court and an associate at Sanford Heisler, LLP. On this case, Ms. Seffel worked during Period 2 on the review of individual children's files and the accompanying Sample Analysis, handled additional discovery work, and prepared for and participated in the trial. She left the firm in December 2015.

11. In addition, three non-TPM attorneys have acted as co-counsel on this case:

(a) Jeffrey S. Gutman obtained his J.D. *cum laude* from Harvard Law School in 1986. *See* Affidavit of Jeffrey Gutman, Pl. Ex. 15, para. 4. Mr. Gutman is currently a Professor of Clinical Law at The George Washington University ("GWU") Law School. *Id.*, para. 1. Prior to joining the GWU Law School faculty in 1994, Mr. Gutman served as a Trial Attorney with the Federal Programs Branch, Civil Division, United States Department of Justice. *Id.*, para. 4. Mr. Gutman was instrumental to bringing this case to TPM, he supervised his clinical students who

investigated this case, reviewed documents, and provided strategic advice regarding this case. *Id.*, paras. 5-27.

(b) Margaret A. Kohn graduated from Columbia University School of Law in 1972. *See* Affidavit of Margaret Kohn, Pl. Ex. 16, para. 1. After law school, Ms. Kohn was a fellow at the Center for Law and Social Policy, a staff attorney at the Legal Services Bureau of the Correctional Association of New York and the Women's Rights Project at the Center for Law and Social Policy, and was a managing attorney at the National Women's Law Center. *Id.*, para. 3. Since 1988, Ms. Kohn has focused her practice on special education law. *Id.*, para. 4. She is currently a solo practitioner. *Ibid.* She has been the class counsel in this litigation since 2003. Her extensive knowledge of special education law and the Child Find operations, policies, and practices of the District enabled her to provide essential contributions as class counsel. *Id.*, paras. 4-8, 15-22, 27-35. She also served as the primary contact with the named plaintiffs, whom she had represented in their individual Individuals with Disabilities Education Act ("IDEA") claims. *Id.*, para. 15.

(c) Cyrus Mehri graduated from Cornell Law School in 1988. *See* Affidavit of Cyrus Mehri, Pl. Ex. 17, para. 3. Mr. Mehri clerked for the Honorable John T. Nixon, Chief Judge of the Middle District of Tennessee. *Ibid.* He is a founding partner of Mehri & Skalet, PLLC, and an extremely experienced class action litigator and expert on class certification. *Id.*, paras. 1, 3-4, 8-11. Mr. Mehri did work on this case related to class certification and settlement. *Id.*, paras. 11-12.

12. Other TPM attorneys were involved when they had a particular expertise in a subject that was being briefed or when we needed additional assistance with a particular task. Those attorneys are described below in alphabetical order.

(a) Benjamin S. Davis graduated from University of Michigan Law School, *cum laude*, in 2014. Mr. Davis worked at the firm as a summer law clerk before graduation from law school, and he also worked at the firm after he graduated law school. He assisted on this case with fact research, legal research, and drafting.

(b) Janice D. Gorin graduated from Harvard Law School, *cum laude*, in 2004. Prior to joining the firm in September 2007, Ms. Gorin was an associate at Steptoe & Johnson, LLP, where she represented clients in civil litigation and regulatory matters. She assisted on this case with motions practice and discovery work. She left the firm in October 2009.

(c) Michael Huang graduated from the Georgetown University Law Center in 2007, where he served as Notes Editor for The Georgetown Law Journal. Before joining the firm, Mr. Huang was an associate counsel to the State & Local Legal Center and a clerk to the Honorable Erik P. Christian of the Superior Court of the District of Columbia. He joined the firm in March 2012. He assisted on this case with the appeal.

(d) Andrew Kirtley earned a Master of Environmental Law and Policy degree from Vermont Law School and graduated from Northeastern University School of Law in 2014. Mr. Kirtley worked at the firm in 2014 and 2015. He assisted on this case with various research tasks.

(e) Elisabeth J. Lyons graduated from the Georgetown University Law Center in 1988. She was an associate practicing labor and employment law at Semmes, Bowen and Semmes until 1990, when she first joined TPM. Ms. Lyons was an associate at the firm until 1994. From 1994 until 2007, Ms. Lyons was in private practice concentrating in family law, adoptions, and child-welfare law. Ms. Lyons re-joined TPM in October 2007 and left the firm in

2015. She assisted on this case with calls to parents related to the FERPA notice described below.

(f) Kathleen L. Millian graduated from Stanford Law School in 1985. Before beginning employment with the firm, Ms. Millian was a judicial clerk to the Honorable James K. Singleton of the Alaska Court of Appeals from 1985 to 1986. She began employment with the firm in 1987 and became a partner in 1992. Since joining the firm, she has litigated complex cases in the federal courts. From time to time, she has reviewed the written materials and provided legal guidance.

(g) Carolyn Smith Pravlik graduated from Catholic University Law School in 1980. After law school, Ms. Pravlik was a participant in the Solicitor's Honors Program at the United States Department of the Interior. Ms. Pravlik joined the firm in 1981 and became a partner in 1987. Since 1982, Ms. Pravlik has litigated complex cases in the federal courts. A significant amount of that time has involved the litigation of fees. She assisted with the fee application that was briefed in 2012. She has also provided legal guidance regarding this case.

(h) Patrick A. Sheldon graduated from University of Chicago Law School in 2004. Before joining the firm in 2010, Mr. Sheldon was an Associate Legal Officer at the International Criminal Tribunal for the former Yugoslavia and an associate at Cleary Gottlieb Steen & Hamilton LLP. Mr. Sheldon assisted with the fee application that was briefed in 2012.

(i) Nicholas F. Soares graduated from the Georgetown University Law Center, *cum laude*, in 2012. He joined the firm in November 2012. He assisted on this case with legal research and drafting.

(j) Michelle Weaver graduated from Columbia University School of Law in 2006, where she served as co-senior editor of the Columbia Journal of Environmental Law. She joined the firm in 2006. She assisted on this case with drafting and document review.

EXPERTS

13. Over the course of the case, plaintiffs were significantly supported by two experts: Dr. Carl J. Dunst, who dealt with special education issues, and Dr. Leonard A. Cupingood, who dealt with statistical issues. In addition to analyzing the District's documents and data and advising us, the experts prepared expert reports and testified at depositions and at both trials. The experts' qualifications and their work in the case is described further in their affidavits and in the attachments thereto. *See* Pl. Exs. 18, 20.

14. As they did in their 2012 briefing, plaintiffs request payment for all of the fees and expenses that they paid these experts during Period 1, totaling \$121,207.82. *See* Pl. Ex. 18, para. 9 (Dunst: \$55,919.07); Pl. Ex. 20, para. 14 (Cupingood: \$65,288.75). As described in Plaintiffs' Memorandum in Support of Plaintiffs' Motion for an Award of Litigation Costs, Including Attorneys' Fees and Related Expenses (Section V(C)) and in the 2012 briefing, if this Court is disinclined to award that amount, plaintiffs request that they be compensated for time and expenses related to depositions and trial attendance, which totals \$15,530.50.⁶ *See* Pl. Ex. 19, pp. 1-3 (Dunst, \$6,501.00); Pl. Ex. 21, p. 1 (Cupingood, \$9,029.50).

⁶ This number is slightly higher than the amount requested in 2012 for time and expenses related to depositions and trial attendance because plaintiffs had overlooked some costs related to hotel stays for Dr. Dunst in that prior request. *See* Pl. Ex. 19, pp. 1-3, nn. 3, 10. While plaintiffs had inadvertently omitted those expenses from their secondary request for time and expenses related to depositions and trial attendance, those expenses were included in plaintiffs' primary request under the Rehabilitation Act for all of the fees and expenses that they had paid to experts over that period.

15. For Period 2, plaintiffs paid their experts \$137,001.26 for their work. *See* Pl. Ex. 18, para. 12 (Dunst: \$62,875.85); Pl. Ex. 20, para. 16 (Cupingood: \$74,125.41). However, they are not requesting that they be compensated for those amounts. As described in plaintiffs' memorandum (Section V(C)) and detailed in Plaintiffs' Exhibits 19 and 21, for Period 2, plaintiffs request instead that they receive the much lower amount that relates to the time and expenses associated with the experts' trial attendance, which is \$1,809.25. *See* Pl. Ex. 19, pp. 4-5 (Dunst: \$1,338.25); Pl. Ex. 21, p. 2 (Cupingood: \$471.00). Plaintiffs have already been compensated by the District for their experts' Period 2 deposition expenses. *See* Order, dated June 10, 2015 (ECF No. 447).⁷

SUMMARY OF WORK PERFORMED DURING PERIOD 1

16. Below is a summary of the primary work performed during Period 1. Further below is detail related to the particular categories and subcategories of work that was performed during Period 1.

17. Period 1 began with preparing to draft the complaint and ended with the Court's November 16, 2011 Order (ECF No. 295), which held that the District was in violation of the IDEA, the Rehabilitation Act, and District of Columbia law through April 6, 2011. The parties vigorously litigated numerous complex legal and fact issues during Period 1.

18. Discovery was long and contentious. The District engaged in a rolling production of over 100,000 e-mails and documents, before, during, and even after trial. The District served several requests for documents and interrogatories on plaintiffs, and plaintiffs produced approximately 25,000 pages of documents. Due to the District's tardy productions and

⁷ For Period 2, since plaintiffs are not requesting the full amount of their payments to experts, plaintiffs have removed those totals from their expenses summary (Pl. Ex. 14), and have identified the amount of the requested Period 2 expert fees and expenses related to trial attendance as a line item on Plaintiffs' Exhibit 4.

violations of numerous discovery deadlines, plaintiffs made several requests for the District to supplement its discovery responses and sent numerous letters expressing their concerns about the completeness of the District's document productions. Plaintiffs deposed 16 witnesses and the District deposed 2 witnesses.

19. Plaintiffs filed three motions to compel. *See* Plaintiffs' Motion to Compel Defendants' Responses to Plaintiffs' First Set of Requests for Production of Documents, dated July 10, 2006 (ECF No. 41); Plaintiffs' Motion to Compel Defendants' Responses to Plaintiffs' First, Second, and Third Sets of Requests for Production of Documents and Plaintiffs' First Set of Interrogatories, dated February 4, 2008 (ECF No. 91); Plaintiffs' Motion to Compel Deposition of Defendants' Expert prior to Deadline for Plaintiffs' Expert Rebuttal Reports, dated August 26, 2009 (ECF No. 153). On June 27, 2008, this Court issued a Memorandum Opinion (ECF No. 107) that granted in part plaintiffs' 2008 motion to compel and ordered the District to pay plaintiffs' reasonable attorneys' fees.

20. The District's discovery violations continued. On the eve of the first trial and shortly thereafter, the District produced nearly 25,000 e-mails and documents. On the first day of trial, plaintiffs moved to compel discovery of the remaining responsive documents. Trial Tr., dated April 6, 2011, p. 4. On April 7, 2011, the Court granted plaintiffs' request and held "that all privileges and objections [were] deemed WAIVED," with respect to the District's remaining productions. ECF No. 232, p. 1.

21. On April 11, 2011, the District filed its Motion for Reconsideration (ECF No. 233) of the Court's discovery ruling. In its May 9, 2011, Memorandum Opinion (ECF No. 247, p. 16), the Court denied the District's motion and held that the District had been "openly,

continuously, and repeatedly violating multiple Court orders, * * * and committing a discovery abuse so extreme as to be literally unheard of in this Court.”

22. During the six years that this case was pending prior to trial, the District filed three motions to dismiss. Defendants’ Motion for Dismissal of the Complaint (“Defendants’ First Motion to Dismiss”), dated November 10, 2005 (ECF No. 18), argued that plaintiffs’ purported failure to exhaust their remedies under the IDEA warranted dismissal of their claims. Defendants’ Motion for Dismissal of Plaintiffs’ Claim of a Violation of Section 504 of the Rehabilitation Act (“Defendants’ Second Motion to Dismiss”), dated November 16, 2005 (ECF No. 19), moved to dismiss plaintiffs’ claims due to the alleged failure to state a viable claim. Defendants’ Motion for Dismissal of Defendant District of Columbia Public Schools Superintendent Clifford Janey (“Defendants’ Third Motion to Dismiss”), dated December 8, 2005 (ECF No. 23), argued that plaintiffs could not sue a District employee in his official capacity.

23. The parties filed cross-motions for summary judgment. *See* ECF Nos. 177, 178. Resolving those motions, in its August 10, 2010, Memorandum Opinion (ECF No. 198), the Court found that defendants had violated the IDEA, the Rehabilitation Act, and District law through 2007.

24. In preparing their case, plaintiffs relied on substantial evidence, including statistical analyses and analyses of demographic data about the District in comparison to other states. Plaintiffs’ experts spent considerable time analyzing the District’s data and preparing reports and written testimony relevant to this case.

25. From 2005-2011, the parties spent substantial time preparing for and participating in settlement discussions and mediations, which were unsuccessful.

26. Approximately two weeks before trial, the District filed its Motion to Decertify Class, dated March 23, 2011 (ECF No. 214), and its Motion for Relief from Judgment and for Judgment as a Matter of Law, dated March 25, 2011 (ECF No. 221). The District also sought an expedited briefing schedule on its Motion to Decertify Class. *See* Defendants' Emergency Motion for Expedited Briefing on Motion to Decertify Class, dated March 23, 2011 (ECF No. 215). After extensive briefing, the Court denied the District's motions. *See* ECF Nos. 296, 299.

27. During trial, the District agreed to plaintiffs' post-trial submission of additional exhibits and additional testimony due to the District's delinquent document productions. On June 3, 2011, plaintiffs filed their Motion for Leave to Re-open the Record and to Admit Additional Exhibits (ECF No. 255). After opposing plaintiffs' motion, the District filed its own Motion for Leave to Re-Open the Record to Admit Contrary Evidence, dated November 4, 2011 (ECF No. 289).

28. Plaintiffs spent considerable time drafting their Proposed Post-Trial Findings of Fact and Conclusions of Law (ECF No. 256) and Proposed Order (ECF No. 256-1). The Proposed Order set forth the terms of injunctive and declaratory relief adopted by the Court in its November 16, 2011, Order (ECF No. 295).

29. Two months after trial concluded, but before this Court issued its decision, the Supreme Court decided *Wal-Mart Stores, Inc. v. Dukes*, 564 U.S. 338 (2011), which altered the law relating to class certification. In response to the decision, the District filed its Supplemental Memorandum of Law in Support of their Motion to Decertify Class, dated July 1, 2011 (ECF No. 265). After examining the *Wal-Mart* decision and its impact on plaintiffs' claims, on May 6, 2011, plaintiffs filed a Praecipe (ECF No. 246), which informed the Court of their intent to oppose the District's supplemental brief and of their plan to move to re-certify the class and to

amend the complaint. On August 18, 2011, plaintiffs filed their Motion for Class Recertification (ECF No. 271) and Motion for Leave to File Their Second Amended Complaint for Declaratory and Injunctive Relief (ECF No. 270).

30. After extensive briefing by both sides, on November 16, 2011, the Court re-certified plaintiffs' claims as a "hybrid" class action under Rule 23(b)(2) and Rule 23(b)(3). Memorandum Opinion (Class Action Issues), dated November 16, 2011 (ECF No. 297). The Court also held that the District violated the IDEA, the Rehabilitation Act, and District law through April 6, 2011, ordered class-wide injunctive and declaratory relief, and ordered the parties to submit a proposal for addressing class member's claims for individual relief. Memorandum Opinion & Findings of Fact and Conclusions of Law (ECF No. 294); Order (ECF No. 295).

SPECIFIC WORK PERFORMED DURING PERIOD 1

31. TPM has exercised billing judgment in identifying the time for which compensation is sought. TPM is seeking compensation only for time that it would have billed to paying clients. *See* paras. 8, 91 herein (plaintiffs are not fee-paying clients). In the exercise of billing judgment, we eliminated 153.535 hours of work, totaling \$67,989.07, computed at the current rates sought in this application. These hours are the No Charge Time Records attached as Plaintiffs' Exhibit 7.

32. Also, as described above (para. 3), in response to objections raised in Defendants' Opposition to Plaintiffs' Motion for an Award of Litigation Costs, Including Attorneys' Fees and Related Expenses (ECF No. 343), TPM has made additional reductions to its fees for work performed during Period 1. TPM eliminated \$63,710.24, computed at the current rates sought in this application. *See* Pl. Ex. 9. Those reductions are incorporated into this application.

33. In 2008, plaintiffs moved for fees and expenses related to work done to compel discovery from the District. *See* Motion for an Award of Litigation Costs, Including Attorneys' Fees and Out-of-Pocket Expenses, for Plaintiffs' Motion to Compel Discovery, dated July 25, 2008 (ECF No. 110). This Court did not award certain portions of those fees and expenses. *See* Memorandum Opinion, dated March 11, 2009 (ECF No. 139), pp. 13-14. Having prevailed after trial, in 2012, plaintiffs requested a portion of the fees that the Court had not previously awarded. That amounted to \$41,207.55 (\$40,001.04 of which were TPM fees), which is based on the rates sought in plaintiffs' 2008 motion to compel fee application. *See* Memorandum in Support of Plaintiffs' Motion for an Award of Litigation Costs, Including Attorneys' Fees and Expenses, dated April 30, 2012 (ECF No. 325-1), p. 45, n. 48; Summary of Remaining Fees Sought in 2008 MTC Fee Petition, ECF No. 325-11. To simplify matters, plaintiffs have not requested that amount here. TPM has also removed from this application two additional time entries totaling \$1,451.65 that corresponded to that work, which had inadvertently not been requested with the initial motion to compel fee application, but were requested in the 2012 fee application. *See* para. 38(i)(xv) below; Pl. Ex. 10. Since TPM has not charged for any attorneys or paralegals that billed fewer than 10 hours on this case in either Period 1 or Period 2, TPM has also removed from this application one time entry from an attorney who billed 0.433 hours to this case during Period 1, and whose time was inadvertently included in the 2012 fee application. *See* Pl. Ex. 10.

34. After reductions, TPM is requesting \$3,371,131.27 in fees for Period 1. Pl. Ex. 4.

35. We have broken down the fees for TPM work in Period 1 into categories and subcategories, each of which relate to particular work that was performed. To the extent possible, the categories and subcategories follow the order in which the activities arose during

the litigation. Activities that span the breadth of Period 1, such as settlement discussions, are described at the end.

36. This breakdown is set forth in the Summary of Time by Category for Period 1, which is Plaintiffs' Exhibit 5. That exhibit shows the requested hourly rate for the experience level attained by the individual (identified by initials) at the time the work was performed, the total amount of time expended in each category and subcategory by each individual, and the total amount of fees related to each category and subcategory.

37. This breakdown into categories and subcategories is also set forth in Plaintiffs' Exhibit 6, which includes the contemporaneous time records related to the work. The time records are organized by category, subcategory, individual, and date. Within each category and subcategory, the time is divided by individual and then by date. Individuals are identified by their initials and the initials are presented in alphabetical order. For ease of reference, each time record is assigned a line number.

38. Plaintiffs' Exhibit 5 and 6 are organized by the categories and subcategories described below.

(a) **Complaint.** This category involves work researching and preparing the Complaint (ECF No. 1). This category is divided into the following subcategories.

(i) **Drafting the Complaint.** This subcategory involves work drafting the Complaint.

(ii) **Plaintiffs' Search.** This subcategory involves work on class counsel's search for class representatives. Class counsel corresponded with other attorneys and various legal, public health, and education organizations in the District in regular contact with potential class members.

(iii) **Plaintiffs' Motion to Substitute Defendants.** This subcategory involves work drafting Plaintiffs' Motion to Substitute Defendant, dated November 28, 2007 (ECF No. 85). Plaintiffs sought an order substituting defendants DCPS Chancellor Michelle Rhee and District of Columbia State Superintendent of Education Deborah Gist for Superintendent Clifford B. Janey.

(iv) **Fact Research.** This subcategory involves factual research associated with drafting the Complaint.

(v) **Legal Research.** This subcategory involves legal research associated with drafting the Complaint.

(vi) **Strategy Discussions.** This subcategory involves strategy discussions related to drafting the Complaint.

(vii) **Communications with Co-Counsel.** This subcategory involves time expended communicating with co-counsel regarding the Complaint.

(b) **Plaintiffs' Motion for Certification.** This category involves work on Plaintiffs' Motion for Class Certification, dated September 1, 2005 (ECF No. 5). This category is divided into subcategories related to the initial certification motion, the briefs filed in opposition to and in support of the motion, and the Court's Memorandum Opinion, dated August 25, 2006 (ECF No. 57) and Order, dated August 25, 2006 (ECF No. 58).

(c) **Rule 26(f) Meeting.** This category involves work on the meetings required by Rule 26(f) of the Federal Rules of Civil Procedure and Rule 16.3 of the Local Rules, and the negotiation of a discovery plan.

(d) **Plaintiffs' Initial Disclosures.** This category involves work on plaintiffs' disclosure obligations. This category is divided into the following subcategories.

(i) **Plaintiffs' Initial Disclosures.** This subcategory involves work on the initial disclosures required of plaintiffs by Rule 26(a)(1) of the Federal Rules of Civil Procedure.

(ii) **Plaintiffs' Supplement to Initial Disclosures.** This subcategory involves work on Plaintiffs' Supplement to their Rule 26(a)(1) Initial Disclosures of October 25, 2005, submitted to the District on March 29, 2006, and Plaintiffs' Second Supplement to their Rule 26(a)(1) Initial Disclosures of October 25, 2005, submitted to the District on April 3, 2009.

(e) **Defendant's Motion to Dismiss.** This category involves work on the District's First Motion to Dismiss (ECF No. 18), due to plaintiffs' purported failure to exhaust their administrative remedies under the IDEA. This category is divided into the following subcategories.

(i) **Defendants' Initial Brief.** This subcategory involves work reviewing the District's motion.

(ii) **Plaintiffs' Opposition Brief.** This subcategory involves work on plaintiffs' opposition (ECF No. 24).

(iii) **Defendants' Reply Brief.** This subcategory involves work reviewing the District's reply (ECF No. 29).

(iv) **Plaintiffs' Sur-Reply Brief.** This subcategory involves work on Plaintiffs' Consent Motion for Leave to File a Sur-Reply to Defendants' Motion for Dismissal of the Complaint for Failure to Exhaust Administrative Remedies, dated January 20, 2006 (ECF No. 36).

(v) **Plaintiffs' Motion to Strike Defendants' Supplemental Reply Brief.** This subcategory involves work on Plaintiffs' Motion to Strike Defendants' Supplement to their December 29, 2005, Reply to Plaintiffs' Opposition to Defendants' Motion for Dismissal of the

Complaint for Failure to Exhaust Administrative Remedies, dated January 20, 2006 (ECF No. 35) and the reply brief in support of that motion (ECF No. 38).

(vi) **Court's Decision.** This subcategory involves work reviewing this Court's August 25, 2006, Memorandum Opinion (ECF No. 53) and Order (ECF No. 54).

(f) **Defendants' Second Motion to Dismiss.** This category involves the work on the District's Second Motion to Dismiss, based on plaintiffs' purported failure to state a claim (ECF No. 19). This category is divided into subcategories that relate to briefs in opposition to that motion.

(g) **Defendants' Third Motion to Dismiss.** This category involves work on the District's Third Motion to Dismiss (ECF No. 23). This category is divided into subcategories that relate to the briefs filed in opposition to and in support of that motion.

(h) **Plaintiffs' First Motion to Amend the Complaint.** This category involves work on Plaintiffs' Motion for Leave to File Their First Amended Complaint for Declaratory and Injunctive Relief, dated August 3, 2006 (ECF No. 46). Plaintiffs moved to amend the complaint in order to update the facts related to the named plaintiffs, to remove two of the named plaintiffs, and to refine further the allegations in the complaint. This category is divided into subcategories that relate to the initial motion and the briefs filed in opposition to and in support of the motion.

(i) **Plaintiffs' Discovery.** This category is divided into the following subcategories that relate to the discovery undertaken by plaintiffs.

(i) **Discovery Plan.** This subcategory involves work preparing and negotiating a discovery plan.

(ii) **Protective/Confidentiality Order.** This subcategory involves work drafting and negotiating the Joint Motion for Protective Order, dated October 28, 2005 (ECF No.

15) and Order, dated October 31, 2005 (ECF No. 17), which sought to protect the exchange of confidential information about minor children and their parents.

(iii) **Joint Motion for Extension of Discovery.** This subcategory involves work on the Parties' Joint Motion to Amend the Scheduling Order, dated March 28, 2006 (ECF No. 39), and the Joint Motion to Amend the Scheduling Order, dated December 11, 2006 (ECF No. 72), which sought an extension of time for both parties to complete their fact and expert discovery.

(iv) **Joint Status Report.** This subcategory involves work on the Parties' Joint Status Report and Motion to Extend Time to File Renewed Motions to Compel Discovery Responses, dated December 7, 2006 (ECF No. 69).

(v) **Consent Protective Order.** This subcategory involves work drafting the Amended Protective Order, dated June 2, 2008 (ECF No. 105), and the Parties Agreement Regarding Discovery, completed on February 15, 2011, which sought to protect the confidentiality of information about minor children and their parents or guardians during the discovery process, and to allow for public filings with the Court with adequate protection for such information during the litigation.

(vi) **Plaintiffs' 1st Document Request.** This subcategory involves work preparing Plaintiffs' First Set of Requests for Production of Documents, submitted to the District on December 28, 2005.

(vii) **Plaintiffs' 2d Document Request.** This subcategory involves work preparing Plaintiffs' Second Set of Requests for Production of Documents, submitted to the District on September 17, 2007.

(viii) **Plaintiffs' 1st Set of Interrogatories and 3d Set of Document Requests.**

This subcategory involves work preparing Plaintiffs' First Set of Interrogatories and Third Set of Requests for Production of Documents, submitted to the District on September 28, 2007.

(ix) **Plaintiffs' 2d Set of Interrogatories.**

This subcategory involves work preparing Plaintiffs' Second Set of Interrogatories, submitted to the District on December 16, 2010.

(x) **Plaintiffs' 4th Wave of Discovery.**

This subcategory involves work preparing plaintiffs' fourth wave of document requests to the District. Rather than submitting specific document requests, plaintiffs sent a December 16, 2010, letter to the District's counsel requesting supplemental responses to plaintiffs' prior document requests and interrogatories.

(xi) **Defendants' 5th Supplemental Document Production.**

This subcategory involves work reviewing the fifth set of documents produced by the District on July 13, 2007.

(xii) **Review Documents Produced by Defendants.**

This subcategory involves work reviewing documents produced by the District in response to plaintiffs' discovery requests, where the review of documents was not limited to a specific document production. For example, from February to April 2011, the District engaged in a rolling production of documents in response to various document requests from plaintiffs that dated back to 2008, 2009, and 2010.

(xiii) **Review Defendants' Interrogatory Responses.**

This subcategory involves work reviewing the District's responses to plaintiffs' interrogatories.

(xiv) **Defendants' Motion for Protective Order.**

This subcategory involves work reviewing Defendants' Motion for Protective Order Deferring Expert Deposition Pending

Exchange of Expert Reports, dated August 24, 2009 (ECF No. 151), and drafting plaintiffs' opposition (ECF No. 152).

(xv) **Plaintiffs' Motion to Compel.** As explained above (*see* para. 33), plaintiffs' previously sought the attorneys' fees and expenses associated with plaintiffs' motions to compel. That related to plaintiffs' first and second motions to compel. This category includes the two additional time slips regarding the work on the first motion to compel that were mistakenly omitted from the initial fee application for that work in 2008. I have included this description because these slips were in the exhibits that were previously filed with plaintiffs' 2012 fee application, but we are no longer asking for compensation for the time associated with these time slips. *See* para. 33 above; Pl. Ex. 10 (reductions).

(xvi) **Plaintiffs' 3d Motion to Compel - Plaintiffs' Initial Brief.** This subcategory involves work on Plaintiffs' Motion to Compel Deposition of Defendants' Expert prior to Deadline for Plaintiffs' Expert Rebuttal Reports, dated August 26, 2009 (ECF No. 153).

(xvii) **Plaintiffs' 3d Motion to Compel - Defendants' Opposition Brief.** This subcategory involves work reviewing Defendants' Opposition to Plaintiffs' Motion to Compel and Reply in Support of Defendants' Motion for a Protective Order, dated September 2, 2009 (ECF No. 155).

(xviii) **Plaintiffs' 3d Motion to Compel - Plaintiffs' Reply Brief.** This subcategory involves work on Plaintiffs' Reply to Defendants' Opposition to Plaintiffs' Motion to Compel and Reply in Support of Defendants' Motion for a Protective Order, dated September 8, 2009 (ECF No. 159).

(xix) **Plaintiffs' 3d Motion to Compel - Supplemental Brief.** This subcategory involves work on Plaintiffs' Motion for Leave to File Supplemental Brief in Support

of Plaintiffs' Motion to Compel Deposition of Defendants' Expert Prior to Deadline for Plaintiffs' Expert Rebuttal Reports, dated September 17, 2009 (ECF No. 161).

(xx) **Defendants' Motion for Reconsideration.** This subcategory involves work on Defendants' Motion for Reconsideration, dated April 11, 2011 (ECF No. 233), which requested reconsideration of the April 7, 2011, ruling regarding privileges with respect to documents that had yet to be produced to plaintiffs. This subcategory includes work on the briefs filed in opposition to and in support of the motion.

(xxi) **Defendants' Motion to Stay.** This subcategory involves work regarding Defendants' Motion for Stay Pending Reconsideration, dated April 11, 2011 (ECF No. 234), and the briefs filed in opposition to and in support of the motion.

(xxii) **Plaintiffs' Fact Depositions.** This subcategory involves the work preparing for and taking the depositions of Nathaniel Beers, Joan Christopher, Maxine Freund, Genevieve Johnson, Zondra Johnson, Barbara Ferguson Kamara, Amy Maisterra, and Chanda Whitaker. Plaintiffs prepared for but did not take the depositions of Miriam Calderon and Marla Oakes. Dr. Oakes died before her deposition. Plaintiffs did not depose Miriam Calderon after the District objected to the expected deposition length and in order to reserve more time to depose the District's expert.

(xxiii) **Rule 30(b)(6) Depositions.** This subcategory involves work on the Rule 30(b)(6) depositions of Joann Clark, Sharon Dunmore, Tameria Lewis, Badiyah Mushirah-Sharif, Jerri Johnston-Stewart, Patricia Young, Noah Wepman, and Alexandra Williamson.

(xxiv) **Communications with Co-Counsel.** This subcategory involves time expended communicating with co-counsel regarding plaintiffs' discovery requests.

(xxv) **Communications with Opposing Counsel.** This subcategory involves time expended communicating with opposing counsel regarding plaintiffs' discovery requests.

(xxvi) **Document/Database Management.** This subcategory involves work cataloging and organizing the significant number of documents produced in discovery. TPM relied on an internal database to manage the documents, to track the source of documents, and to use the documents as exhibits in this case. During the course of the litigation, the District produced over 100,000 e-mails and documents, before, during, and even after trial.

(j) **Defendants' Discovery.** This category is divided into the following subcategories that relate to the discovery undertaken by the District.

(i) **Plaintiffs' Response to Defendants' 1st Document Request.** This subcategory involves work on Plaintiffs' Responses to Defendants' First Request for Production of Documents and Things to Plaintiffs, submitted to the District on December 10, 2005.

(ii) **Plaintiffs' Response to Defendants' 1st Set of Interrogatories.** This subcategory involves work on Plaintiffs' Response to Defendants' First Set of Interrogatories, submitted to the District on January 11, 2008.

(iii) **Plaintiffs' Response to Defendants' 2d Wave of Discovery.** This subcategory involves work on Plaintiffs' Response to Defendant's Second Set of Interrogatories and Plaintiffs' Response to Defendants' Second Request for Production of Documents and Things to Plaintiffs, submitted to the District on March 18, 2009.

(iv) **Plaintiffs' Response to Defendants' 3rd Set of Interrogatories.** This subcategory involves work on Plaintiffs' Response to Defendant's [Third] Set of Interrogatories, submitted to the District on February 23, 2011.⁸

(v) **Plaintiffs' Supplemental Response to Defendants' 1st and 2d Set of Document Requests.** This subcategory involves work on Plaintiffs' Supplemental Responses to Defendants' First and Second Requests for Production of Documents and Things to Plaintiffs, submitted to the District on April 13, 2009, April 29, 2009, May 27, 2009, June 10, 2009, December 18, 2009, February 4, 2010, and August 10, 2010.

(vi) **Plaintiffs' Supplemental Response to Defendants 1st and 2d Set of Interrogatories.** This subcategory involves work providing a Supplement to Plaintiffs' Responses to Defendants' First and Second Sets of Interrogatories, submitted to the District on April 13, 2009.

(vii) **Plaintiffs' Supplemental Response to Defendants' 3d Set of Interrogatories.** This subcategory involves work on Plaintiffs' Supplemental Response to Defendant's [Third] Set of Interrogatories, submitted to the District on March 7, 2011.

(viii) **Defendants' Motion to Compel.** This subcategory involves work reviewing Defendants' Motion to Compel Discovery Production of Documents by Plaintiffs, dated August 1, 2006 (ECF No. 45), and drafting Plaintiffs' Opposition to Defendants' Motion to Compel, dated August 15, 2006 (ECF No. 48).

(ix) **Defendants' 2d Motion to Compel.** This subcategory involves work reviewing Defendants' Motion to Compel Discovery, dated February 27, 2008 (ECF No. 95),

⁸ Defendants incorrectly labeled their third set of interrogatory requests as "Defendants' Second Set of Interrogatories."

and drafting Plaintiffs' Opposition to Defendants' Motion to Compel, dated March 12, 2008 (ECF No. 98).

(k) **Experts.** This category is divided into the following subcategories.

(i) **Retention of Experts.** This subcategory involves work obtaining information regarding the qualifications and prior work of plaintiffs' experts.

(ii) **Defendants' Experts.** This subcategory involves work obtaining information regarding the qualifications and prior work of the District's proposed experts.

(iii) **Consultations with Experts.** This subcategory involves work consulting with plaintiffs' experts on the large number of issues presented throughout the litigation.

(iv) **Plaintiffs' Expert Reports.** This subcategory involves work on the reports of plaintiffs' experts.

(v) **Defendants' Expert Reports.** This subcategory involves work reviewing the reports of the District's expert.

(vi) **Deposition of Plaintiffs' Experts.** This subcategory involves work preparing for and defending the District's depositions of plaintiffs' experts.

(vii) **Deposition of Defendants' Experts.** This subcategory involves work preparing for and conducting the depositions of the District's expert.

(viii) **Documents for Plaintiffs' Experts.** This subcategory involves work reviewing and identifying the documents obtained in discovery for review by plaintiffs' experts.

(ix) **Defendants' Discovery.** This subcategory involves work identifying and producing to the District the sources and documents relied on by plaintiffs' experts.

(l) **Defendants' Motion for Summary Judgment.** This category involves work associated with Defendants' Motion for Summary Judgment, dated March 22, 2010 (ECF No.

177). The category is divided into subcategories related to the initial motion, the briefs filed in opposition to and in support of the motion, and plaintiffs' motion for an oral argument on the summary judgment motions.

(m) **Plaintiffs' Summary Judgment Motion.** This category involves work associated with Plaintiffs' Motion for Partial Summary Judgment on Liability, dated March 22, 2010 (ECF No. 178). The category is divided into subcategories related to the initial motion, the briefs filed in opposition to and in support of the motion, and the Court's Memorandum Opinion, dated August 10, 2010 (ECF No. 198).

(n) **Defendants' Motion to Strike Cupingood Testimony.** This category involves work on Defendants' Motion to Strike Report and Testimony of Dr. Leonard Cupingood, Along with All Evidence Based Thereon, dated April 19, 2010 (ECF No. 181). This category is divided into subcategories related to the District's initial motion, the briefs filed in opposition to and in support of the motion, and review of the Court's Order, dated August 10, 2010 (ECF No. 195), and Memorandum Opinion, dated August 10, 2010 (ECF No. 196).

(o) **Defendants' Motion to Decertify the Class.** This category involves work on the District's Motion to Decertify Class, dated March 23, 2011 (ECF No. 214), which argued that the named plaintiffs lacked standing to assert claims for ongoing harm resulting from the District's failures. The category is divided into the following subcategories.

(i) **Defendants' Initial Brief.** This subcategory involves work reviewing the District's motion.

(ii) **Plaintiffs' Opposition Brief.** This subcategory involves work drafting Plaintiffs' Opposition to Defendants' Motion to Decertify the Class, dated April 22, 2011 (ECF No. 238).

(iii) **Defendants' Reply Brief.** This subcategory involves work reviewing Defendants' Reply in Support of Motion to Decertify Class, dated May 16, 2011 (ECF No. 252).

(iv) **Plaintiffs' Motion for Leave to File Sur-Reply Brief.** This subcategory involves work drafting Plaintiffs' Motion for Leave to File a Sur-Reply to Defendants' Reply in Support of Motion to Decertify Class, dated June 13, 2011 (ECF No. 259).

(v) **Plaintiffs' Sur-Reply Brief.** This subcategory involves work drafting Plaintiffs' Sur-Reply Brief to Defendants' Reply in Support of Motion to Decertify Class, dated June 13, 2011 (ECF No. 259-1).

(vi) **Defendants' Supplemental Brief.** This subcategory involves work reviewing and discussing responses to Defendants' Supplemental Memorandum of Law in Support of Their Motion to Decertify Class, dated July 1, 2011 (ECF No. 265), which was filed in response to the Supreme Court's decision in *Wal-Mart*.

(vii) **Defendants' Motion to Expedite.** This subcategory involves work on Defendants' Emergency Motion for Expedited Briefing on Motion to Decertify Class, dated March 23, 2011 (ECF No. 215), and the briefs filed in opposition to and in support of the motion.

(viii) **Legal Research.** This subcategory involves legal research associated with plaintiffs' response to the District's supplemental memorandum of law. The research examined the effects of *Wal-Mart* on class actions.

(ix) **Praecipe.** This subcategory involves drafting a Praecipe, dated August 24, 2011 (ECF No. 274), informing the Court of plaintiffs' intent to submit an opposition brief to the District's supplemental memorandum of law.

(x) **Plaintiffs' Supplemental Brief.** This subcategory involves the work on Plaintiffs' Supplemental Memorandum of Law in Opposition to Defendants' Motion to Decertify Class (ECF No. 267).

(xi) **Court's Opinion.** This subcategory involves reviewing the Court's Memorandum Opinion (Class Action Issues), dated November 16, 2011 (ECF No. 297).

(xii) **Communications with Co-Counsel.** This subcategory involves time communicating with co-counsel regarding the District's Motion to Decertify the Class (ECF No. 214).

(xiii) **Communications with Opposing Counsel.** This subcategory involves time communicating with opposing counsel regarding the District's Motion to Decertify the Class (ECF No. 214).

(p) **Defendants' Motion for Oral Direct Testimony.** This category involves work on Defendants' Motion to Present Oral Direct Testimony, dated March 24, 2011 (ECF No. 218), at trial.

(q) **Defendants' Motion to Strike Objections to Pretrial Statement.** This category involves work on Defendants' Motion to Strike in Part Plaintiffs' Objections to Defendants' Pretrial Statement, dated March 25, 2011 (ECF No. 219). This category is divided into subcategories related to the District's initial motion and plaintiffs' opposition.

(r) **Defendants' Motion for Judgment.** This category involves work on the District's Motion for Relief from Judgment and for Judgment as a Matter of Law, dated March 25, 2011 (ECF No. 221), which sought relief from the Court's finding of partial summary judgment in favor of plaintiffs. This category is divided into subcategories related to the initial motion and the briefs filed in opposition to and in support of the motion.

(s) **Pretrial Statement.** This category involves work on the parties' pre-trial statements. This category is divided into the following subcategories.

(i) **Plaintiffs' Pretrial Statement.** This subcategory involves work preparing Plaintiffs' Pretrial Statement, dated March 15, 2011 (ECF No. 207).

(ii) **Defendants' Pretrial Statement.** This subcategory involves work reviewing and preparing for the arguments made in Defendants' Pretrial Statement, dated March 15, 2011 (ECF No. 208). For example, the District's pretrial statement noted their intent to move for decertification of plaintiffs' class and for judgment as a matter of law on the basis that the IDEA allegedly does not create a private right of action to seek broad injunctive relief.

(t) **Pretrial Conference.** This category involves work preparing for the March 29, 2011, pretrial conference.

(u) **Pretrial Order.** This category involves work reviewing the Court's Pretrial Order, dated March 29, 2011 (ECF No. 229), and preparing a response to the District's conditional stipulations offered in their pretrial statement.

(v) **Trial Preparation.** This category involves work preparing the factual and legal materials for trial. The time in this category is divided into the following subcategories.

(i) **Defendants' Exhibits.** This subcategory involves work reviewing the District's trial exhibits.

(ii) **Plaintiffs' Exhibits.** This subcategory involves work preparing plaintiffs' trial exhibits.

(iii) **Fact Research.** This subcategory involves factual research associated with plaintiffs' pre-trial preparation.

(iv) **Legal Research.** This subcategory involves legal research associated with plaintiffs' pre-trial preparation.

(v) **Preparation of Written Testimony.** This subcategory involves work on the written testimonies of plaintiffs' three witnesses and the supplement to the direct testimony of one witness.

(vi) **Defendants' Witnesses.** This subcategory involves work reviewing the direct testimonies of the District's witnesses and preparing the cross-examination questions for each witness.

(vii) **Plaintiffs' Witness List.** This subcategory involves work identifying plaintiffs' witnesses and preparing a witness list for trial.

(viii) **Plaintiffs' Witness.** This subcategory involves work preparing plaintiffs' witnesses for trial.

(ix) **Trial Outline.** This subcategory involves work creating an outline of the presentation of evidence and witnesses at trial.

(x) **Opening Oral Argument.** This subcategory involves time expended preparing for the opening statement at trial.

(xi) **Preparation of Closing Argument.** This subcategory involves time expended preparing for the closing argument at trial.

(xii) **Strategy Discussions.** This subcategory involves work discussing a variety of trial issues and strategies for presenting the evidence.

(xiii) **Subpoenas to Third Parties.** This subcategory involves work on a subpoena for testimony.

(w) **Trial.** This category involves time spent attending and participating in the April 6-7, 2011, trial.

(x) **Plaintiffs' Motion to Reopen Record.** This category involves work preparing Plaintiffs' Motion for Leave to Re-open the Record and to Admit Additional Exhibits, dated June 3, 2011 (ECF No. 255), pursuant to the Court's April 7, 2011, Order (ECF No. 232). This category is divided into subcategories related to the initial motion, the briefs filed in opposition to and in support of the motion, and the Court's Memorandum and Order, dated October 25, 2011 (ECF No. 287).

(y) **Plaintiffs' Post-Trial Findings & Conclusions.** This category involves work on Plaintiffs' Proposed Post-Trial Findings of Fact and Conclusions of Law, dated June 3, 2011 (ECF No. 256), and the Proposed Order, dated June 3, 2011 (ECF No. 256-1).

(z) **Plaintiffs' Second Motion to Amend Complaint.** This category involves work on Plaintiffs' Motion for Leave to File Their Second Amended Complaint for Declaratory and Injunctive Relief, dated August 18, 2011 (ECF No. 270). This category is divided into subcategories related to the initial motion, and the briefs filed in opposition to and in support of the motion.

(aa) **Plaintiffs' Renewed Motion for Certification.** This category involves work on Plaintiffs' Motion for Class Recertification, dated August 18, 2011 (ECF No. 271). This category is divided into subcategories related to the initial motion, the briefs filed in opposition to and in support of the motion, and the Court's Memorandum Opinion (Class Action Issues) (ECF No. 297) and Order (Class Action Issues), dated November 16, 2011 (ECF No. 296).

(bb) **Defendants' Motion to Reopen Record.** This category involves work on Defendants' Motion for Leave to Re-Open the Record to Admit Contrary Evidence, dated

November 4, 2011 (ECF No. 289), pursuant to the Court's October 25, 2011 Order (ECF No. 287). This category is divided into subcategories related to the initial motion, the briefs filed in opposition to and in support of the motion, and the Court's Memorandum and Order of November 16, 2011 (ECF No. 298).

(cc) **Court's Decision.** This category involves work reviewing the Court's Memorandum Opinion & Findings of Fact and Conclusions of Law (ECF No. 294), Order (ECF No. 295), Memorandum Opinion (Class Action Issues) (ECF No. 297), and Memorandum and Order, dated November 16, 2011 (ECF No. 298).

(dd) **Court's Decision - Motion to Compel.** This category involves reviewing the Court's Memorandum Opinion (ECF No. 139) and Order (ECF No. 140), regarding plaintiffs' Motion for an Award of Litigation Costs, Including Attorneys' Fees and Out-of-Pocket Expenses, for Plaintiffs' Motion to Compel Discovery, dated July 25, 2008 (ECF No. 110).

(ee) **Attorney's Fees.** This category involves the work on the attorneys' fees available to plaintiffs under the IDEA and the Rehabilitation Act.

(ff) **Mediation.** This category involves work preparing for and participating in mediation with the District throughout the course of the litigation that aimed to reach an agreement on necessary improvements to the District's special education policies and procedures for preschool-age children. The category is divided into the following subcategories.

(i) **Plaintiffs' Motion to Compel Mediation - Initial Brief.** This subcategory involves drafting Plaintiffs' Opposed Motion for an Order Appointing a Magistrate Judge as Mediator and Compelling the Parties to Participate in Mediation, dated January 11, 2010 (ECF No. 172).

(ii) **Plaintiffs' Motion to Compel Mediation - Opposition Brief.** This subcategory involves reviewing Defendants' Memorandum in Opposition to Plaintiffs' Motion to Compel Mediation, dated January 26, 2010 (ECF No. 173).

(iii) **Plaintiffs' Motion to Compel Mediation - Reply Brief.** This subcategory involves drafting Plaintiffs' Reply in Further Support of Their Motion for an Order Appointing a Magistrate Judge as Mediator and Compelling the Parties to Participate in Mediation, dated February 4, 2010 (ECF No. 174).

(iv) **Mediation Preparation.** This subcategory involves preparing for several days of mediation with the District, by, for example, drafting proposals for resolving plaintiffs' individual relief claims.

(v) **Mediation Session.** This subcategory involves participating in eight days of mediation with the District.

(vi) **Communications with Client.** This subcategory involves communications with plaintiffs about the goals and progress of the mediation and any proposed settlements with the District.

(vii) **Communications with Opposing Counsel.** This subcategory involves communicating with opposing counsel regarding the mediation.

(gg) **Settlement.** This category involves the time spent preparing for and participating in numerous settlement discussions with the District from 2005 to 2011 that sought to reach an agreement regarding improvements to the District's special education policies and practices.

(hh) **General Research.** This category involves work on general research for the case. This research is labeled general because it is not directly associated with the preparation of a particular pleading, brief, or other paper.

(ii) **Scheduling.** This category involves work scheduling and managing the deadlines throughout the course of the litigation. The time is divided into subcategories related to various motions to amend scheduling orders, to set pretrial deadlines, and to extend the period for discovery.

(jj) **Scheduling/Status Conferences.** This category involves scheduling/status conferences conducted throughout the case. The time is divided into subcategories that are titled by the date of the particular status conference.

(kk) **Communications with Client.** This category involves general communications with our clients during the course of the litigation.

(ll) **Notice of Appearance.** This category involves work preparing notices of appearance for plaintiffs' counsel and reviewing the notices filed by the District's counsel.

(mm) **Case Administration.** This category involves general work on the management and development of the case. For example, this category includes the time expended to manage ECF filings in TPM's document management system.

EXPENSES ACCRUED DURING PERIOD 1

39. TPM has requested reimbursement for expenses. These are the type of expenses which we would bill to paying clients and that law firms typically charge their clients.

40. TPM has not produced the back-up documentation (*e.g.*, taxi receipts) for these expenses (or the Period 2 expenses) because it is voluminous. TPM will produce those materials to the District or the Court if it is requested and will file it with the Court, as necessary, if it is challenged.

41. TPM also has not produced the detailed expense logs for these expenses (or the Period 2 expenses), which include, for example, an entry every time that a document is printed. These documents are voluminous. Given the volume of this filing, plaintiffs are attempting to

reduce its size. Plaintiffs will produce that material to the District or the Court if it is requested and will file it with the Court, as necessary, if it is challenged.

42. We are filing herewith as Plaintiffs' Exhibit 8 a summary of the Period 1 expenses. We divided the expenses into the following categories, which are identified in that summary. I describe these categories below.

- (a) **Conference Calls.** This was the cost of conference calls.
- (b) **Documents and Reference Materials.** These were the costs to obtain reference material specific to this case.
- (c) **Expert Fees.** These were the costs during Period 1 for the services of plaintiffs' experts, Dr. Carl J. Dunst and Dr. Leonard Cupingood.
- (d) **Facsimile Transmission.** These were the costs for sending correspondence and other documents via fax. Over Period 1, we charged 50 cents or \$1.00 for faxes. TPM has lowered its cost to 15 cents per fax. Accordingly, we have reduced the request so that all faxes are 15 cents per page. *See* Pl. Ex. 10 (reductions).
- (e) **Filing Fee.** This was the cost for filing this action.
- (f) **Interpreter Fees.** This category was inadvertently omitted from the corresponding affidavit that I submitted in 2012. In our billing judgment, we are not seeking this amount. *See* Pl. Ex. 10 (reductions).
- (g) **LEXIS.** These were the costs for LEXIS computerized legal research.
- (h) **Local Travel.** These were the costs of taxi travel in Washington, D.C.
- (i) **Messenger Delivery Fees.** These were the costs for local delivery of documents and correspondence.

(j) **Miscellaneous.** These were miscellaneous expenses. We are no longer seeking these expenses. *See* Pl. Exs. 9, 10 (reductions).

(k) **Overnight Delivery Charges.** These were the costs for overnight delivery. Overnight delivery is used only when it was requested, when necessary due to court-ordered deadlines, and/or due to the importance or time-sensitive nature of the materials and when the item could not be sent via e-mail or other electronic means.

(l) **Overtime Meals.** These were the costs for food when working overtime. Although these expenses were requested in the 2012 briefing, we have ceased billing for overtime meals and have removed these expenses from the request. *See* Pl. Ex. 10 (reductions).

(m) **PACER Court Docket System.** These were the fees charged for use of the Court's PACER docket system in conjunction with this case.

(n) **Photocopying - B&W (In-House).** These were the costs for the copying of court papers, deposition exhibits, expert reports, some documents produced in discovery, and correspondence. During the 2012 briefing, we charged 20 cents per page. TPM has lowered its cost to 15 cents per page. Accordingly, we have reduced this request to 15 cents per page. *See* Pl. Ex. 10 (reductions).

(o) **Photocopying - External.** These were the costs for copying that was not able to be done in-house.

(p) **Postage.** These were the postage costs.

(q) **Printing - B&W.** These were the costs for printing pages in black and white. During the 2012 briefing, we charged 20 cents per page. We have lowered this cost to 15 cents per page. Accordingly, we have reduced this request to 15 cents per page. *See* Pl. Ex. 10 (reductions).

(r) **Printing - Color.** These were the costs for printing pages in color. During the 2012 briefing, we charged \$1.00 per page. We have lowered this cost to 25 cents per page. Accordingly, we have reduced this request to 25 cents per page. *See* Pl. Ex. 10 (reductions).

(s) **Process Server Fees.** These were the costs of serving the complaint and subpoenas.

(t) **Scanning - Internal.** These were the costs for scanning materials in-house. During Period 1, we charged 15 cents or 20 cents per page for scanning. We have lowered this cost to 15 cents per page. Accordingly, we have reduced this request so that all scanning is 15 cents per page. *See* Plaintiffs' Exhibit 10 (reductions).

(u) **Support Staff Overtime.** These were the costs to the firm of clerical overtime. This overtime was charged because this work had to be completed on an urgent basis.

(v) **Telephone/Telephone (Taxes Computed by Computer).** These two categories represent costs incurred for long-distance telephone calls. During the course of the case, we entered a contract under which we no longer incur long distance telephone charges. In our billing judgment, we are no longer seeking the earlier telephone charges we incurred. *See* Pl. Ex. 10 (reductions).

(w) **Transcript/Reporting Fees.** These were the costs for deposition transcripts.

(x) **Travel Expenses.** This is the cost of a round-trip ticket for plaintiffs' expert. Unlike the other expert fees, we paid for this ticket ourselves and seek reimbursement.

(y) **Velobinding Charges.** These were the costs for binding briefs and other materials.

(z) **Westlaw.** These were the costs for Westlaw computerized legal research. As noted above, plaintiffs' counsel also incurred LEXIS costs. During the course of this litigation, we switched from LEXIS to Westlaw.

(aa) **Witness Fees.** These were the costs related to plaintiffs' witnesses and deponents.

43. In the previous fee application, TPM requested payment of \$210,502.42 for expenses. *See* Pl. Ex. 8. On reply, TPM reduced that amount by \$10,000 related to a retainer fee for plaintiff's expert. *See* Pl. Ex. 9, p. 6. In addition, as described above, TPM has revised its billing practices and no longer charges for various items. Accordingly, TPM has removed an additional \$9,685.14 in expenses from its Period 1 request. *See* Pl. Ex. 10. After these reductions, TPM requests payment for \$190,817.28 in expenses for Period 1. Pl. Ex. 4.

SUMMARY OF WORK PERFORMED DURING PERIOD 2

44. Below is a summary of the primary work performed during Period 2. Further below is detail related to the particular categories and subcategories of work that was performed during Period 2. As described herein, the parties vigorously litigated numerous complex legal and fact issues during Period 2.

45. Period 2 began after the Court issued its decision following the first trial. That includes work in the court of appeals related to the District's appeal. The law developed quickly following the Supreme Court's decision in *Wal-Mart*. Class certification was a critical issue to this case and a substantial amount of work was devoted to researching class certification issues, monitoring case law, briefing the appeal, communicating with *amici*, and preparing for oral argument.

46. Period 2 also includes work on the first post-trial fee application in this case (ECF Nos. 325-326), which was fully briefed in 2012, and the District's related motion to hold fees

briefing in abeyance. A substantial amount of work went into the application, which included the plaintiffs' opening brief and reply, which were supported with 94 exhibits (*see* ECF No. 348, pp. 36-40 (exhibit list)), as well as briefing related to a sur-reply and a sur-sur-reply (ECF Nos. 349, 353, 354). Much of the briefing related to the issues regarding hourly rates, particularly the differences between the update of the *Laffey* Matrix using the Legal Services Index ("LSI") Component of the Consumer Price Index ("CPI") and the update of the *Laffey* Matrix by the United States Attorney's Office ("USAO") using the All-Items Regional CPI. Plaintiffs demonstrated that the LSI *Laffey* Matrix was more closely aligned with prevailing market rates than the USAO *Laffey* Matrix advocated by the District.⁹ Similar issues are again the subject of briefing on this motion, however, as described below (paras. 87-89) a different USAO matrix is at issue. While the 2012 motion for attorneys' fees was never ruled upon, that work was put to use in this fee application. Rather than start from scratch, plaintiffs were able to build off of the existing fee application to prepare this application.

47. The largest portion of work related to Period 2 relates to litigating the merits of the case in the district court. During Period 2, the case proceeded through amendment of the complaint, class certification briefing, motion to dismiss briefing, fact discovery, expert discovery, summary judgment briefing, pre-trial motions practice, trial preparations, trial, and post-trial work. This was a second full round of litigation. The District again fought this case strenuously and, ultimately, the Court issued an injunction that was very similar to that which was issued in 2011.

48. Work during Period 2 in the district court began with activities following the 2011 decision, such as negotiating, drafting, and briefing a proposal to provide individual relief to

⁹ This same issue was later resolved in the plaintiffs' favor in *Salazar v. District of Columbia*, 809 F.3d 58, 64-65 (D.C. Cir. 2015), a case involving plaintiffs' lead counsel here.

members of the class, briefing and negotiation related to Defendants' Motion for Reconsideration, dated January 12, 2012 (ECF No. 307), in which the District asked that the Court modify several provisions of the injunction, and monitoring the District's performance pursuant to the injunction.

49. After remand from the court of appeals, there was contentious briefing related to plaintiffs' motion for class certification (ECF No. 358). After successfully challenging the single class in the court of appeals, the District challenged plaintiffs' four proposed subclasses in the district court. Plaintiffs also moved to reinstate this court's prior liability findings (ECF No. 358) and moved to amend the complaint (ECF No. 359). The District further moved to dismiss the case (ECF No. 365), which was briefed around the same time.

50. Discovery proceeded after the subclasses were certified. This went through several different phases. Plaintiffs initially expected discovery to be relatively straightforward, but as they dug below the District's summary statistics, they identified numerous issues that undermined their reliability and required further consideration.

51. First, plaintiffs reviewed documents, met with the District, and developed a discovery plan. At the same time, the District petitioned the court of appeals to review this Court's class certification decision (*see* para. 67 below) and also asked the district court and the court of appeals for a stay of discovery.

52. Plaintiffs met with District staff, learned more about the District's databases, negotiated issues with the District regarding access to databases, samples, confidentiality issues, and FERPA obligations, and plaintiffs conferred with their experts and further assessed the information that they needed to litigate this case.

53. Plaintiffs served three discovery requests. In response, the District produced thousands of pages of documents as well as hundreds of spreadsheets, and provided access to data and documents in the Special Education Data System (“SEDS”) database, and needed to re-produce many of its documents due to bates numbering problems. The parties were in constant written and oral communication to work through discovery issues.

54. Plaintiffs reviewed the documents to develop their case, forwarded many of them to their experts, and conferred with their experts about them. Many of the District’s documents were spreadsheets with data from the District’s databases. A substantial amount of work was done to understand those materials.

55. The District provided plaintiffs with access to information related to samples of children in their SEDS database. This required negotiation over confidentiality issues and agreement on a protective order. It also required the District to notify parents that their children’s information might be turned over to plaintiffs, which resulted in a deluge of telephone calls to us, which was substantially increased by the fact that the notice was not timely sent and many parents were worried about the release of their children’s information.

56. Plaintiffs had two paralegals review the District’s SEDS database. The information in the District’s databases raised numerous questions related to the accuracy of the District’s statistics—far more questions than plaintiffs had expected. Accordingly, plaintiffs drafted an analysis of the facts related to many of the sampled children and asked if the District would agree to a cooperative method for it to review plaintiffs’ analysis and to respond by providing documents and information to supplement or dispute it. Plaintiffs’ goal was to ensure that they had access to all documents and information related to the children that could affect the District’s statistics in order to identify and resolve, as much as possible, potential disputes

regarding these children prior to trial. The District informed plaintiffs that it would not agree to such a cooperative method to address plaintiffs' assessments of these children, but, if plaintiffs served a discovery request upon the District, it would respond as it deemed appropriate.

57. The process related to that review was the subject of much dispute and took substantial time. Plaintiffs developed that analysis (the Sample Analysis), served it on the District with a document request, received additional documents from the District regarding the descriptions in that analysis, revised their analysis (the Revised Sample Analysis), and provided the analyses to Dr. Dunst, and data related to the analyses to Dr. Cupingood, who issued reports and revised reports that relate to that information.

58. The District strongly challenged all of the materials related to those analyses. It moved to exclude the expert's reports based on, *inter alia*, the use of data from the analyses. *See* Defendants' Motion to Exclude the Expert Reports and Testimony of Carl Dunst and Leonard Cupingood, dated December 19, 2014 (ECF No. 427). Plaintiffs stripped the analysis of conclusions and moved *in limine* for the admission of the resulting Factual Summary (ECF No. 455), and the District cross-moved to exclude it (ECF No. 460). The Court admitted the summary but permitted the District to depose plaintiffs' counsel and required plaintiffs' counsel to introduce it at trial and be subject to cross-examination. Memorandum Opinion, dated October 23, 2015 (ECF No. 478). Ultimately, plaintiffs filed their proposed findings of facts and conclusions of law regarding individual children (ECF Nos. 485-486, 514-2), which was based on these materials.

59. Plaintiffs took Rule 30(b)(6) depositions on five separate dates, many of which included two witness at once, and in total included 10 witnesses.

60. Plaintiffs' experts were critical to their case. Plaintiffs' counsel therefore spent a substantial amount of time working with their experts to analyze the case, regarding their reports, preparing for their depositions, preparing their written direct testimony, and preparing them for trial. This work included, for Dr. Dunst, addressing numerous complex special education issues and, for Dr. Cupingood, complicated statistical issues. Plaintiffs also reviewed the report of the District's expert, conferred with Dr. Dunst regarding it, and deposed her.

61. Plaintiffs moved for partial summary judgment. ECF No. 416. The District moved for summary judgment (ECF No. 417) and to exclude plaintiffs' experts' reports (ECF No. 427). After those motions were fully briefed and decided, the case moved forward to trial.

62. Trial preparations were also time-consuming. In addition to standard pre-trial work, such as preparation of the pre-trial statement, there was significant motions practice. The District moved to decertify subclass 1 (ECF No. 467), to dismiss as moot plaintiffs' Rehabilitation Act claims (ECF No. 466), and for reconsideration of part of the Court's summary judgment decision (ECF No. 468). Both parties filed contested motions to supplement the written direct testimony. ECF Nos. 489, 490. The District also made ongoing productions to plaintiffs and the parties negotiated an agreement as to what data would be produced and be admissible at trial, since it would not have been possible to receive and assess data up to trial.

63. It took plaintiffs' counsel a substantial amount of time to marshal the evidence identified during discovery, which counsel did through 305 trial exhibits (ECF No. 502-1), a 67-page pre-trial proposed findings of fact and conclusions of law regarding individual children (ECF No. 486), and a 195-page post-trial proposed findings of fact and conclusions of law (ECF No. 511-1). That 195-page document was filed after trial, but plaintiffs spent substantial time working on it (and an evidence outline, which helped plaintiffs' counsel to prepare it) before

trial, and initially planned to file it before trial. Preparation of that document considerably aided plaintiffs' trial preparation.

64. The trial was only three days long. That was in large part due to the fact that the parties had filed written direct testimony, which substantially decreased the trial's length.

65. After trial, substantial work went into plaintiffs' post-trial proposed findings of facts and conclusions of law. The District also moved again to dismiss the Rehabilitation Act claims (ECF No. 510), which plaintiffs opposed.

66. Plaintiffs are also seeking fees related to some of the work following the Court's trial decision (*see* para. 5 above), including review of the Court's decision, the parties' motions to correct minor errors in the decision, and review of publicly-available documents related to the District's performance up to June 22, 2016. This application also includes time, on several occasions over the course of Period 2, related to plaintiffs' attempts to settle this case.

67. Period 2 also includes work litigating the petition that the District filed in the court of appeals seeking interlocutory review of this Court's class certification decision and the corresponding request in the court of appeals to stay discovery in the district court.

SPECIFIC WORK PERFORMED DURING PERIOD 2

68. As described above with regard to Period 1, TPM has exercised billing judgment in identifying the time for which compensation is sought. TPM is seeking compensation only for time that it would have billed to paying clients. In the exercise of billing judgment, TPM eliminated 306.661 hours of work from Period 2, totaling \$128,037.68. These hours are the No Charge Time Records attached as Plaintiffs' Exhibit 13.¹⁰

¹⁰ This No Charge time includes time for non-working travel. During Period 2, TPM began billing its clients at 50 percent of their hourly rate for time to travel to case-related matters (*e.g.*, a taxi to court), when they were not working during that travel. TPM did not segregate any non-working travel time that may have existed for such short trips during Period 1 or for part of

69. In addition, TPM has, in the exercise of billing judgment, made various other reductions.

(a) First, TPM is reducing the time spent on the appeal by 25 percent. TPM billed \$720,818.29 with regard to the appeal. *See* Pl. Ex. 11, pp. 1-7. TPM is reducing its request by 25 percent, which is \$180,204.57.

(b) Second, TPM is reducing time spent by Ehsan Tabesh for legal research and other work related to the appellees' brief for the appeal by 75 percent. Mr. Tabesh performed research and other tasks related to appellees' brief, but left TPM before he was able to draft appellees' brief. That time totals 144.902 hours, which amounts to \$49,556.48. *See* Pl. Ex. 11, pp. 2-3 (time for ET). TPM is reducing its request by 75 percent of that amount, which is \$37,167.36. In fact, Mr. Tabesh's time on that work is being reduced by more than 75 percent, since TPM is also reducing all of its appeal fees by 25 percent, as described above.

(c) Third, TPM has reduced by 25 percent the time that Benjamin Davis spent working on Plaintiffs' Opposition to Defendants' Motion to Dismiss the "Second Claim" of the Second Amended Complaint, dated October 8, 2015 (ECF No. 471). *See* para. 77(y) below (referring to time spent on Defendants' Mootness Motion). Mr. Davis' work on that opposition cost \$36,907.96. Pl. Ex. 11, p. 41 (time for BSD). TPM is reducing the application by 25 percent of that, which is \$9,226.99.

(d) Fourth, TPM has reduced by 75 percent the time that Andrew Kirtley worked on this case. Mr. Kirtley's work cost \$111,610.05. TPM is reducing its request by 75 percent of that amount, which is \$83,707.54.

Period 2 and therefore cannot reduce that time by 50 percent. To approximate the appropriate reduction, TPM is not billing for any of its non-working travel that TPM segregated for Period 2. Otherwise said, TPM has reduced segregated non-working travel during Period 2 by 50 percent and is not requesting the 50 percent balance to account for the prior non-working travel.

(e) Fifth, TPM has reduced by 25 percent the time related to the preparation of the pre-trial version of plaintiffs' proposed findings of fact and conclusions of law. As described herein, that document was of substantial assistance with regard to the preparation for trial and for the preparation of the post-trial version of the document, but plaintiffs did not file it pre-trial. TPM billed \$204,340.13 with regard to this work. Pl. Ex. 11, p. 36. TPM is reducing the request by 25 percent of that, which is \$51,085.03.

70. These reductions total \$361,391.49. Once reduced, this yields \$5,823,226.84 in fees for TPM for Period 2. Pl. Ex. 4.

71. As with Period 1, for Period 2, we have broken down TPM's fees into categories and subcategories, each of which relate to particular work that was performed. To the extent possible, the categories and subcategories follow the order in which the activities arose during the litigation. Activities that span the breadth of Period 2, such as settlement discussions, are described at the end.

72. This breakdown is set forth in the Summary of Time by Category (Period 2), which is Plaintiffs' Exhibit 11. Plaintiffs' Exhibit 11 shows the requested hourly rate for the experience level attained by the individual (identified by initials) at the time the work was performed, the total amount of time expended in each category and subcategory by each individual, and the total amount of related fees.

73. This breakdown into categories and subcategories is also set forth in Plaintiffs' Exhibit 12, which includes the contemporaneous time records related to the Period 2 work. The time records are organized by category, subcategory, individual, and date. Within each category and subcategory, the time is divided by individual and then by date. Individuals are identified by

their initials and the initials are presented in alphabetical order. For ease of reference, each time record is assigned a line number.

74. Period 2 time is also broken down in Plaintiffs' Exhibits 11 and 12 by "client." This does not relate to a division among actual clients, but rather was a method to divide work among different stages of the litigation using TPM's timekeeping software. The applicable "client" is identified in the lower left corner of each page of the exhibits. Those "clients" are (1) Child Find Appeal, which relates to the appeal following this Court's first injunction, (2) Child Find Fees 2, which relates to the 2012 fees briefing, (3) Child Find – Post Judgment, which relates to merits work in the district court, and (4) Child Find Rule 23 Petition, which relates to the District's petition for an interlocutory appeal in the court of appeals challenging this Court's post-appeal certification of the four subclasses.

75. The time records in Plaintiffs' Exhibit 11 and 12 with regard to Child Find Appeal (the initial appeal) are organized by the categories and subcategories described below.

(a) **Notice of Appeal and Appeal Forms.** This category involves work related to the preparation of initial appeal forms, the initial scheduling order, and a subsequent notice of appearance.

(b) **Appellant's Brief.** This category involves work related to appellant's brief. The category is divided into subcategories related to review of, and research related to, the page proof version of that brief, and scheduling issues.

(c) **Appellees' Brief.** This category involves work related to the preparation of appellees' brief. The category is divided into subcategories related to preparation of the page-proof version of the brief, preparation of the final version of the brief, legal research, strategy discussions, and scheduling issues.

(d) **Amicus Brief.** This category involves work related to the amicus brief that was filed in the appeal. The category is divided into subcategories related to communications with third parties (the *amici*), review of the amicus brief, strategy discussions, and scheduling issues.

(e) **Appellant's Reply Brief.** This category involves review of and research related to appellant's reply brief.

(f) **Joint Appendix.** This category involves work related to the preparation of the joint appendix.

(g) **Oral Argument.** This category involves work related to preparation for the oral argument and the oral argument. It is divided into subcategories related to preparation for the oral argument by the attorney arguing the case as well as other counsel and paralegals that provided assistance in the preparation for oral argument by drafting memoranda and arranging materials for review, as well as subcategories related to the moot court, the oral argument, legal research, scheduling, and time related to requesting the oral argument transcript.

(h) **Notice of Recent Decision.** This category involves work related to submissions to the court of appeals describing post-briefing decisions in other cases. The time is broken down by subcategories related to appellants' letters regarding recent decisions, appellees' response letters, and post-briefing legal research.

(i) **Court's Decision.** This category involves review of the court of appeals' decision.

(j) **Petition for Rehearing.** This category involves work assessing a potential petition for rehearing.

(k) **Communications with Client.** This category involves communications with the lead plaintiffs regarding the appeal, arguments, the oral argument, and the court of appeals' decision.

(l) **Case Administration.** This category includes one subcategory (ECF Management), which is for paralegal work managing ECF filings in TPM's document management system.

76. The time records in Plaintiffs' Exhibits 11 and 12 with regard to Child Find Fees 2 (the 2012 fees briefing) are organized by the categories and subcategories described below.

(a) **Plaintiffs' Initial Fee Application.** This category involves work related to the preparation of plaintiffs' fee application. The work is divided into the following subcategories.

(i) **Plaintiffs' Initial Brief.** This subcategory involves work researching and preparing the Memorandum in Support of Plaintiffs' Motion for an Award of Litigation Costs, Including Attorneys' Fees and Related Expenses, dated April 30, 2012 (ECF No. 325).

(ii) **Supporting Affidavits & Exhibits – Initial Brief.** This subcategory involves work reviewing fees and expenses and preparing affidavits and other exhibits to support the application, including with regard to the time worked and the rates requested. This work took a substantial amount of time because it involved the review and description of approximately six years of work on this case and the marshalling of affidavits and other evidence regarding market rates for complex federal litigation. Plaintiffs supported their opening brief with 78 exhibits.

(iii) **PI Motion for Extension of Time.** This subcategory involves work on two consent motions for extensions of time: one filed November 29, 2011, to set the initial schedule beyond the 14 days provided under the federal rules (ECF No. 302), and one filed

February 24, 2012, for an extension due in part to other post-trial activities in which the parties had engaged (ECF No. 315).

(iv) **Defendants' Opposition Brief.** This subcategory involves review of Defendants' Opposition to Plaintiffs' Motion for an Award of Litigation Costs, Including Attorneys' Fees and Related Expenses, dated September 4, 2012 (ECF No. 343).

(v) **Motion for Extension of Time.** This subcategory involves work on the Consent Motion to Set Schedule for Briefing of Plaintiffs' Application for Attorneys' Fees, dated July 25, 2012 (ECF No. 339), which, *inter alia*, requested an extension of time for the District to file its opposition, and plaintiffs to file their reply.

(vi) **Plaintiffs' Reply Brief.** This subcategory involves work on plaintiffs' Reply Memorandum in Support of Plaintiffs' Motion for an Award of Litigation Costs, Including Attorneys' Fees and Related Expenses, dated October 5, 2012 (ECF No. 348). The District's arguments related to numerous discrete issues, which required a substantial amount of time for response.

(vii) **Supporting Affidavits & Exhibits – Reply Brief.** This subcategory involves work preparing affidavits and other exhibits to support the reply brief.

(viii) **Plaintiffs' Motion to Exceed the Page Limit.** This subcategory involves work preparing plaintiffs' Unopposed Motion for Leave to File a Reply Memorandum Exceeding the Court's Page Limitation, dated October 1, 2012 (ECF No. 344).

(ix) **Defendants' Sur-Reply Brief.** This subcategory involves work reviewing and opposing Defendants' Motion for Leave to File a Sur-Reply, dated October 26, 2012 (ECF No. 349), and the District's corresponding sur-reply, and in preparing Plaintiffs' Opposition to Defendants' Motion for Leave to File a Sur-Reply and Cross-Motion for Leave to

File a Sur-Sur-Reply in the Event that Defendants Are Permitted a Sur-Reply, dated November 13, 2012 (ECF Nos. 353, 354).

(x) **Plaintiffs' Sur-Sur-Reply Brief.** This subcategory involves preparing Plaintiffs' Sur-Sur-Reply in Support of Their Motion for an Award of Litigation Costs, Including Attorneys' Fees and Related Expenses, dated November 13, 2012 (ECF No. 353-1).

(xi) **Plaintiffs' Motion for Oral Argument.** This subcategory involves work related to Plaintiffs' Motion for Oral Argument Regarding Plaintiffs' Motion for an Award of Litigation Costs, Including Attorneys' Fees and Related Expenses, dated October 26, 2012 (ECF No. 351).

(b) **Defendants' Motion to Hold Briefing in Abeyance.** This category involves Defendants' Motion to Hold in Abeyance Briefing on Plaintiffs' Motion for Attorneys' Fees Pending Appeal or, in the Alternative, Motion for Enlargement of Time to Oppose, dated May 11, 2012 (ECF No. 330). The category is divided into subcategories related to the District's initial brief, plaintiffs' opposition brief, the District's reply brief, and plaintiffs' sur-reply brief (which relates to Plaintiffs' Consent Motion for Leave to File a Sur-Reply Brief, dated June 6, 2012 (ECF No. 335), and the corresponding sur-reply brief (ECF No. 335-1)).

77. The time records in Plaintiffs' Exhibits 11 and 12 with regard to Child Find – Post Judgment (merits work in the district court) are organized by the categories and subcategories described below.

(a) **Post-Decision Activities.** This category involves work assessing the Court's 2011 injunction and related legal research, which took place after Period 1.

(b) **Individual Relief.** This category involves work related to individual relief after the Court issued its November 16, 2011, Order (ECF No. 295), which stated (para. 30) that “the

parties shall meet and confer, and propose a procedure for addressing class members' claims for individual relief." Pursuant to that order, the parties engaged in extensive negotiations and drafted documents regarding the individual relief procedure. *See, e.g.*, Proposed Decree for Individual Relief, dated January 31, 2012 (ECF No. 310); Plaintiffs' Memorandum of Points and Authorities in Support of the Disputed Provisions of the Proposed Decree Proposed by Plaintiffs and in Opposition to the Disputed Provisions Proposed by Defendants, dated February 10, 2012 (ECF No. 313). This category is subdivided into work related to plaintiffs' individual relief proposal, plaintiffs' individual notice proposal, defendants' proposal, negotiation with defendants, a motion for extension of time, the proposed consent decree identified above, and plaintiffs' memorandum in support of the proposed decree identified above.

(c) **Defendants' Motion for Reconsideration.** This category involves work on Defendants' Motion for Reconsideration, dated January 12, 2012 (ECF No. 307), in which the District asked that the Court modify several provisions of the injunction. This category is divided into the following subcategories.

(i) **Defendants' Initial Brief.** This subcategory involves work reviewing the District's motion.

(ii) **Plaintiffs' Motion for Extension of Time.** This subcategory involves work on Plaintiffs' Consent Motion to Extend Time to File Plaintiffs' Opposition to Defendants' Motion for Reconsideration, dated January 30, 2012 (ECF No. 308).

(iii) **Plaintiffs' Opposition Brief.** This subcategory involves work on Plaintiffs' Opposition to Defendants' Motion for Reconsideration, dated February 17, 2012 (ECF No. 314), which required, *inter alia*, conferring with plaintiffs' special education expert.

(iv) **Negotiations with Defendants.** This subcategory involves work negotiating the District's proposed modifications to the injunction.

(v) **Defendants' Reply Brief.** This subcategory involves work reviewing the Reply in Further Support of Defendants' Motion for Reconsideration, dated March 14, 2012 (ECF No. 317).

(vi) **Praecipe.** This subcategory involves work on plaintiffs' Praecipe, dated March 16, 2012 (ECF No. 318), regarding further discussions with the District regarding its request to modify the injunction.

(vii) **Plaintiffs' Sur-Reply Brief.** This subcategory involves work on Plaintiffs' Motion for Leave to File a Sur-Reply Brief to Defendants' Reply in Further Support of Motion for Reconsideration, dated April 19, 2012 (ECF No. 321), and the corresponding sur-reply (ECF No. 321-1), to inform the Court of the issues that the parties had resolved and to address the remaining issue.

(viii) **Court's Decision.** This subcategory involves the work reviewing the Memorandum & Order, dated April 25, 2012 (ECF No. 322).

(d) **Post-Judgment Monitoring.** This category involves work monitoring the judgment and is divided into the following subcategories.

(i) **General.** This subcategory involves initial review of monitoring documents by Todd Gluckman around the time that he initially appeared on this case and related discussion.

(ii) **First Programmatic Report.** This subcategory involves work reviewing Defendants' June 1, 2012, Report on Programmatic Requirements (ECF No. 333-1), conferring

with plaintiffs' special education expert, correspondence with the District requesting additional information, and review of the additional material produced and follow up with the District.

(iii) **First Numeric and Programmatic Report.** This subcategory involves work reviewing Defendants' December 1, 2012, Report on Numerical and Programmatic Requirements (ECF No. 356-1), conferring with plaintiffs' special education expert, correspondence with the District requesting additional information, review of the additional material produced, and additional correspondence with the District.

(iv) **Second Programmatic Report.** This subcategory involves work related to the District's potential motion regarding the filing of its next programmatic report.

(v) **Fact Research.** This subcategory involves work researching information that relates to the District's compliance with the injunction.

(vi) **Document/Database Management.** This subcategory involves paralegal work organizing monitoring documents.

(e) **Plaintiffs' Motions for Certification, Reinstatement of Findings of Liability and Order Granting Relief, and Amendment of the Complaint.** This category involves work on Plaintiffs' Motion for Class Certification and Reinstatement of Findings of Liability and Order Granting Relief, dated June 4, 2013 (ECF No. 358), and Plaintiffs Motion to Amend the First Amended Complaint, dated June 4, 2013 (ECF No. 359), which were originally prepared together but were ultimately filed as two separate but related motions. A substantial amount of work went into these motions, given the importance of class certification to the outcome of this case. This category is divided into the following subcategories.

(i) **Plaintiffs' Initial Brief.** This subcategory involves work researching and drafting plaintiffs' initial briefs.

(ii) **Defendants' Opposition Brief.** This subcategory relates to Defendants' Opposition to Plaintiffs' Motion for Class Certification and Reinstatement of Findings of Liability and Order Granting Relief, dated July 15, 2013 (ECF No. 370), and Defendants' Opposition to Plaintiffs' Motion for Leave to Amend Their First Amended Complaint, dated July 15, 2013 (ECF No. 371). Additional time related to these opposition briefs is incorporated in the work described below (para. 77(f) & (g)) with regard to the respective motions.

(iii) **Plaintiffs' Motion for Extension of Time/Pages.** This subcategory involves work on Plaintiffs' Partial Consent Motion to Extend the Time to File Plaintiffs' Reply Briefs in Support of Their Motion for Certification and Motion to Amend the Complaint and to Exceed the Page Limitation for their Reply Brief in Support of Their Motion for Certification, dated July 26, 2013 (ECF No. 372).

(iv) **Plaintiffs' Reply Brief.** This subcategory relates to the reply briefs in support of the two motions. Most of the time related to the preparation of the reply briefs is organized below with regard to the respective motions.

(v) **Legal Research.** This subcategory involves legal research related to the motions beyond that incorporated in time entries related to the individual briefs.

(f) **Plaintiffs' Motion for Certification and Reinstatement.** This category involves additional briefing regarding Plaintiffs' Motion for Class Certification and Reinstatement of Findings of Liability and Order Granting Relief, dated June 4, 2013 (ECF No. 358). This category is divided into the following subcategories.

(i) **Defendants' Opposition Brief.** This subcategory involves work reviewing Defendants' Opposition to Plaintiffs' Motion for Class Certification and

Reinstatement of Findings of Liability and Order Granting Relief, dated July 15, 2013 (ECF No. 370).

(ii) **Plaintiffs' Reply Brief.** This subcategory involves work preparing Plaintiffs' Reply in Support of Motion for Class Certification and Reinstatement of Findings of Liability and Order Granting Relief, dated August 14, 2013 (ECF No. 379).

(iii) **Defendants' Sur-Reply Brief.** This subcategory involves work reviewing and opposing Defendants' Motion for Leave to File a Sur-Reply, dated August 27, 2013 (ECF No. 383), and Defendants' Sur-Reply Regarding Plaintiffs' Motion for Class Certification and Reinstatement of Findings of Liability and Order Granting Relief, dated August 27, 2013 (ECF No. 383-1).

(iv) **Notice of Recent Decision.** This subcategory involves work related to supplemental materials, including reviewing and responding to the District's two documents, both entitled Notice of Supplemental Authority Regarding Plaintiffs' Motion for Class Certification, dated August 14, 2013 (ECF Nos. 377, 378), preparing Plaintiffs' Notice of Supplemental Authority Regarding Plaintiffs' Motion for Class Certification, dated September 10, 2013 (ECF No. 385), reviewing the District's response and replying in support of plaintiffs' notice, and work related to potential additional notices.

(v) **Court's Decision.** This subcategory involves the review of this Court's Memorandum Opinion, dated November 8, 2013 (ECF No. 389), and the corresponding order (ECF No. 388), and consideration of future actions.

(vi) **Communications with Client.** This subcategory involves communications with the lead plaintiffs regarding the Court's decision.

(g) **Plaintiffs' Motion to Amend the Complaint.** This category involves additional briefing regarding Plaintiffs Motion to Amend the First Amended Complaint, dated June 4, 2013 (ECF No. 359). It is divided into the following subcategories.

(i) **Defendants' Opposition Brief.** This subcategory involves work reviewing Defendants' Opposition to Plaintiffs' Motion for Leave to Amend Their First Amended Complaint, dated July 15, 2013 (ECF No. 371).

(ii) **Plaintiffs' Reply Brief.** This subcategory involves work on Plaintiff's Reply in Support of Plaintiff's Motion to Amend the First Amended Complaint, dated August 14, 2013 (ECF No. 380).

(h) **Defendants' Motion for a Status Conference.** This category involves work associated with Defendants' Emergency Motion for a Status Conference, dated June 4, 2013 (ECF No. 360). The category is divided into subcategories related to plaintiffs' opposition brief, the District's reply, and the Court's decision.

(i) **Defendants' Motion to Dismiss.** This category involves work opposing Defendants' Motion to Dismiss, dated June 10, 2013 (ECF No. 365). This category is divided into the following subcategories.

(i) **Defendants' Initial Brief.** This subcategory involves work reviewing the District's motion.

(ii) **Plaintiffs' Opposition Brief.** This subcategory involves work on Plaintiffs' Memorandum of Points and Authorities in Opposition to Defendants' Motion to Dismiss, dated July 3, 2013 (ECF No. 369).

(iii) **Defendants' Reply Brief.** This subcategory involves work reviewing Defendants' Reply in Further Support of Defendants' Motion to Dismiss, dated July 26, 2013 (ECF No. 373).

(iv) **Plaintiffs' Sur-Reply Brief.** This subcategory involves work on Plaintiffs' Motion for Leave to File a Sur-Reply Brief to Defendants' Reply in Further Support of Defendants' Motion to Dismiss, dated August 13, 2013 (ECF No. 376), and corresponding sur-reply brief (ECF No. 376-2), and work related to the District's opposition (ECF No. 381).

(j) **Answer.** This category involves time related to the District's request for an extension of time to answer the amended complaint (ECF No. 391), and reviewing Defendants' Answer to the Second Amended Complaint, dated December 20, 2013 (ECF No. 402).

(k) **Plaintiffs' Discovery.** This category involves plaintiffs' discovery and is divided into the following subcategories.

(i) **Discovery Plan.** This subcategory involves the initial work related to plaintiffs' discovery, including plaintiffs' review of documents and initial assessment of needed discovery, meeting and conferring with the District, preparing the Parties' Joint Report, dated December 9, 2013 (ECF No. 395), regarding the discovery schedule, preparing for and attending the status conference with the Court on December 18, 2013, at which time discovery issues were addressed, and briefing and notices related to Defendants' Motion for Stay, dated November 22, 2013 (ECF No. 394), in which the District asked that discovery be stayed pending its request for an interlocutory appeal.

(ii) **Analysis of Potential Discovery.** This subcategory involves the next phase of work related to plaintiffs' discovery, including meeting with the District's attorneys and staff about its program and databases, meeting with the District regarding potential access to its

databases, telephone calls and e-mails regarding discovery issues, review of documents and assessment of data and other evidence that was needed, consideration of confidentiality issues including the negotiation of a protective order, assessment of potential sampling, conferring with plaintiffs' experts, consideration of FOIA requests and the interview of witnesses, and the initial drafting of deposition outlines.

(iii) **Plaintiffs' First Wave of Discovery.** This subcategory involves the preparation of Plaintiffs' First Post-Trial Set of Requests for Production of Documents and Set of Interrogatories, dated December 24, 2013, and communications with plaintiffs' experts and others related thereto.

(iv) **Plaintiffs' Second Document Requests.** This subcategory involves the preparation of Plaintiffs' Second Post-Trial Set of Requests for Production, dated February 6, 2014, and communications with plaintiffs' expert and others related thereto.

(v) **Defendants' Response to Plaintiffs' Discovery Requests.** This subcategory includes the review and analysis (by counsel or paralegals) of documents and data produced by the District, providing documents and data to plaintiffs' experts and conferring with them, continuation of discovery tasks with the District that relate to the production of information including negotiation of the protective order, negotiation of samples, numerous telephone calls and e-mails with the District to address discovery issues, discussion with the District regarding electronic searches for e-mails, preparation for the review of the SEDS database system, and management of the District's productions.

(vi) **FERPA Notice.** The District sent a letter to parents of children whose information would potentially be provided to plaintiffs' counsel as part of this action. That letter advised parents to contact class counsel with questions about this lawsuit, and to contact a

District representative by a particular date to prevent information from being disclosed to class counsel. The letter was not timely sent, which caused many parents to believe that their information had been wrongly disseminated to class counsel, and caused the District to send a follow-up postcard to parents. Plaintiffs' counsel were inundated with telephone calls and e-mails as a result of these communications. This subcategory relates to fielding those communications and responding to every parent (in English or Spanish, as appropriate), who contacted plaintiffs' counsel.

(vii) **SEDS Review.** The District provided plaintiffs' counsel with access to its SEDS database for samples of children. Paralegals reviewed the SEDS data for those children to determine whether the information matched information in the District's spreadsheets and statistics that had been provided to plaintiffs and whether the data demonstrated other relevant issues. This subcategory involves work related to training on SEDS and this review.¹¹

(viii) **Plaintiffs' Third Document Requests.** This subcategory involves the preparation of Plaintiffs' Third Post-Trial Set of Requests for Production, dated July 11, 2014, which asked the District for all documents that contradict, modify, supplement, or further explain the issues in plaintiffs' Sample Analysis (*see* para. 77(n) below).

(ix) **Defendants' Response to Plaintiffs' Third Document Request.** This subcategory involves the review of the District's production in response to Plaintiffs' Third Post-Trial Set of Requests for Production.

¹¹ Plaintiffs' counsel retained a temporary paralegal to assist with this task. Plaintiffs do not have billing records for that temporary paralegal and are therefore not billing for that temporary paralegal's time.

(x) **Rule 30(b)(6) Depositions.** This subcategory involves the time preparing for, noticing, taking, and reviewing the transcripts for Rule 30(b)(6) depositions that took place on five dates and involved 10 witnesses.

(xi) **Continuing Discovery.** This subcategory involves review of the District's supplemental productions and related discovery work, including communications with the District regarding discovery issues, which took place after the parties moved for summary judgment.

(xii) **Continuing Discovery/Data Agreement.** This subcategory involves negotiations with the District regarding the parties' agreement as to continued productions and reliance on data at trial. As part of the negotiation of that agreement, the parties negotiated terms related to the scope of their experts' testimony regarding the Rehabilitation Act. A small amount of work in this subcategory relates to that topic.

(xiii) **Fact Research.** This subcategory involves fact research, such as reviewing publicly available reports.

(xiv) **Legal Research.** This subcategory involves legal research related to plaintiffs' discovery.

(xv) **Scheduling.** This subcategory involves scheduling work related to Plaintiffs' Consent Motion to Modify the Scheduling Order, dated April 2, 2014 (ECF No. 408), Plaintiffs' Motion for a Limited Extension of the Fact Discovery Deadline, dated July 15, 2014 (ECF No. 410), and the parties' Joint Motion to Modify the Scheduling Order, dated July 23, 2014 (ECF No. 412).

(l) **Defendants' Discovery.** This category involves the District's discovery and is divided into the following subcategories.

(i) **Plaintiffs' Response to Defendants' First Discovery Request.** This subcategory involves review of Defendants' Discovery Requests, dated February 28, 2014, preparation of plaintiffs' response, preparation of numerous supplemental productions, and communications with the District.

(ii) **Deposition of Counsel.** This subcategory involves plaintiffs' counsel, Lauren Seffel, preparing for the District's deposition of her regarding a Rule 1006 summary and being deposed, plaintiffs' other counsel preparing for and defending that deposition, and communications with the District.

(iii) **Defendants' Motion to Compel.** This subcategory involves review of and preparation to oppose Defendants' Motion to Compel Foundational Evidence or to Exclude Plaintiffs' Factual Summary, dated November 9, 2015 (ECF No. 497).

(m) **Experts.** This category is divided into the following subcategories.

(i) **Expert Discovery Requests.** This subcategory involves preparation of Plaintiffs' First Post-Trial Expert Discovery Request, dated August 15, 2014, and review of the documents produced in response.

(ii) **Plaintiffs' Expert Reports.** This subcategory relates to the preparation of the Expert Report of Dr. Carl J. Dunst, dated July 25, 2014, the Supplement to Expert Report of Dr. Carl J. Dunst, dated September 17, 2014, the Report of Dr. Leonard A. Cupingood, dated July 25, 2014, and the Amended Report of Dr. Leonard A. Cupingood, dated September 16, 2014. Dr. Dunst's supplement and Dr. Cupingood's amended report addressed the revisions in the Revised Sample Analysis, which is described in paragraph 77(n) below.

(iii) **Plaintiffs' Supplemental Expert Reports.** This subcategory involves the preparation of the Supplemental Report of Dr. Leonard A. Cupingood, dated October 17, 2014, which revised his analysis.

(iv) **Defendants' Expert Reports.** This subcategory involves the review of the Expert Report of Dr. Maxine Freund, dated August 29, 2014.

(v) **Depositions of Plaintiffs' Experts.** This subcategory involves assessing issues that could arise at the depositions of plaintiffs' experts, Dr. Dunst and Dr. Cupingood, preparing them for their depositions, and related tasks.

(vi) **Deposition of Defendants' Expert.** This subcategory involves preparing for and deposing the District's special education expert, Dr. Maxine Freund.

(vii) **Depositions.** This subcategory involves work related to the depositions of both plaintiffs and the District's experts, which is not incorporated in the subcategories above.

(viii) **Payment of Expert Deposition Expenses.** This subcategory involves negotiations with the District regarding payment for the experts' time and expenses associated with the expert depositions, and the preparation of Plaintiffs' Consent Motion for an Order Requiring Payment of Expert Fees and Expenses, dated April 15, 2015 (ECF No. 443).

(ix) **Legal Research.** This subcategory involves research regarding the experts.

(n) **Plaintiffs' Submission re: Sample Analysis.** This category involves the preparation of Plaintiffs' Sample Analysis, which is a summary of facts and conclusions regarding individual children that plaintiffs' counsel prepared based on the District's data to which plaintiffs were provided access, and Plaintiffs' Revised Sample Analysis, which incorporated information from the District's production in response to Plaintiffs' Third Post-

Trial Set of Requests for Production, described above (para. 77(k)(viii)). These analyses were useful to ensure that the District had produced all documents related to the children described therein, to help plaintiffs' experts assess the District's program, and to help plaintiffs assess the District's program and support plaintiffs' claims. This category is divided into subcategories involving the Sample Analysis and the Revised Sample Analysis.

(o) **Plaintiffs' Summary Judgment Motion.** This category involves the work associated with Plaintiffs' Motion for Partial Summary Judgment as to Defendants' Liability through 2007 and for Judgment as to Defendants' Liability for the Period from January 1, 2008, through April 6, 2011, dated October 24, 2014 (ECF No. 416). The category is divided into subcategories related to the initial motion, the District's opposition, plaintiffs' reply, and legal research.

(p) **Defendants' Motion for Summary Judgment.** This category involves the work associated with Defendants' Motion for Summary Judgment, dated October 24, 2014 (ECF No. 417). This category is subdivided into the following subcategories.

(i) **Defendants' Initial Brief.** This subcategory involves work reviewing the District's initial brief.

(ii) **Plaintiffs' Opposition Brief.** This subcategory involves work preparing Plaintiffs' Opposition to Defendants' Motion for Summary Judgment, dated November 21, 2014 (ECF No. 422), the corresponding Plaintiffs' Statement of Genuine Issues as to Material Facts in Dispute in Opposition to Defendants' Motion for Summary Judgment, dated November 21, 2014 (ECF No. 422), and the corresponding 61 exhibits.

(iii) **Defendants' Reply Brief.** This subcategory involves time reviewing the District's Reply in Further Support of Defendants' Motion for Summary Judgment, dated December 19, 2014 (ECF No. 428).

(iv) **Plaintiffs' Sur-Reply Brief.** This subcategory involves work preparing Plaintiffs' Motion for Leave to File a Sur-Reply in Response to Defendants' Reply in Further Support of Their Motion for Summary Judgment, dated January 21, 2015 (ECF No. 436), and the corresponding Plaintiffs' Sur-Reply in Response to Defendants' Reply in Further Support of Their Motion for Summary Judgment, dated January 21, 2015 (ECF No. 436-2), in reviewing defendants' opposition (ECF No. 440), and in preparing plaintiffs' reply (ECF No. 441).

(q) **Defendants' Motion to Exclude.** This category involves Defendants' Motion to Exclude the Expert Reports and Testimony of Carl Dunst and Leonard Cupingood, dated December 19, 2014 (ECF No. 427). The category is divided into the following subcategories.

(i) **Defendants' Initial Brief.** This subcategory involves work reviewing the District's initial brief.

(ii) **Plaintiffs' Motion for Extension of Time.** This subcategory involves Plaintiffs' Consent Motion to Modify the Briefing Schedule Related to Defendants' Motion to Exclude the Expert Reports and Testimony of Carl Dunst and Leonard Cupingood, dated December 23, 2014 (ECF No. 429).

(iii) **Plaintiffs' Opposition Brief.** This subcategory involves work preparing Plaintiffs' Opposition to Defendants' Motion to Exclude the Expert Reports and Testimony of Carl Dunst and Leonard Cupingood, dated January 15, 2015 (ECF No. 431).

(iv) **Defendants' Reply Brief.** This subcategory involves time reviewing the District's Reply in Further Support of Defendants' Motion to Exclude the Expert Reports and Testimony of Carl Dunst and Leonard Cupingood, dated February 6, 2015 (ECF No. 439).

(r) **Motion for a Status Conference.** This category involves the parties' Joint Motion to Schedule a Status Conference, dated April 3, 2015 (ECF No. 442).

(s) **Court's Decision.** This category involves the review of the Memorandum Opinion, dated June 10, 2015 (ECF No. 444).

(t) **Defendants' Scheduling Motion.** This category involves work related to Defendants' Motion to Continue June 30, 2015 Status Conference, dated June 11, 2015 (ECF No. 448).

(u) **Pretrial Preparation.** This category involves preparation for trial. It is divided into the following subcategories.

(i) **Status Report.** This subcategory involves preparation of the Parties' Joint Status Report, dated June 25, 2015 (ECF No. 452), identifying the issues related to trial to be discussed at the subsequent status conference. This required plaintiffs to consider numerous trial issues and confer with the District regarding them.

(ii) **Status Conference.** This subcategory involves preparation for and attending the status conference held on July 7, 2015.

(iii) **Evidence Outline.** This subcategory involves review of evidence including deposition transcripts and the preparation of an extensive outline that described plaintiffs' claims, the arguments that had to be made to support plaintiffs' claims, the evidence plaintiffs had to support those arguments, and citations to that evidence.

(iv) **Plaintiffs' Experts.** This subcategory involves preparation of the Direct Testimony of Dr. Carl J. Dunst, dated October 15, 2015 (ECF No. 475-1), the Direct Testimony of Dr. Leonard A. Cupingood, dated October 22, 2015 (ECF No. 475-2), corresponding communications with those experts, assessing issues that may arise on cross-examination to prepare those experts for trial, and preparation of those experts for trial.

(v) **Plaintiffs' Fact Witness.** This subcategory involves the Direct Testimony of Lauren E. Seffel, dated October 29, 2015 (ECF No. 487-1), and review of documents and other preparation for her cross-examination.

(vi) **Defendants' Witnesses.** This subcategory involves review of the written direct testimonies of the District's 13 fact witnesses and their expert, and preparation to cross-examine those witnesses.

(vii) **Plaintiffs' Trial Exhibits and Exhibit List.** This subcategory involves reviewing documents to assemble exhibits, organizing them, managing them to avoid disclosing or losing electronic markup, finding the correct copies (the District re-produced most of their productions with corrected bates numbers), excerpting them to avoid inundating the Court with unnecessary pages, efforts to avoid marking unnecessary exhibits, identifying and preparing rebuttal exhibits, work related to deposition designations and counter-designations, marking the exhibits with exhibit numbers and confidential and excerpt stamps, reviewing the final exhibits, addressing the District's objections, and preparing exhibits for the pre-trial conference. A substantial amount of work was necessary to prepare and organize plaintiffs' 305 trial exhibits. *See* Plaintiffs' Trial Exhibit List and Defendants' Objections Thereto (ECF No. 502-1). This work was divided between attorneys and paralegals based on the relevant task.

(viii) **Defendants' Exhibits.** This subcategory involves the review of the District's exhibits and the preparation of objections.

(ix) **Pre-Trial Statement.** This subcategory involves preparation of the Parties' Joint Pretrial Statement, dated October 26, 2015 (ECF No. 484). This required consideration of pre-trial issues, discussions with the District, agreeing on a timeline for preparation of the document, preparing the document including objections to the District's portions, and preparing a list of deposition designations and responding to objections to designations.

(x) **Pre-Trial Conference.** This subcategory involves preparation for and attending the pre-trial conference held on October 29, 2015.

(xi) **Plaintiffs' Findings and Conclusions.** This subcategory involves the review of plaintiffs' evidence outline described above (para. 77(u)(iii)), and extensive evidence, in order to prepare a pre-trial version of plaintiffs' proposed findings of fact and conclusions of law. Although plaintiffs decided not to file this document pre-trial, it was of great assistance in preparing plaintiffs' case for trial and in preparing the post-trial version of the document. The substantial amount of work that went into this document ultimately resulted in Plaintiffs' Post-Trial Proposed Findings of Fact and Conclusions of Law (ECF No. 511-1), which was 195 pages long.

(xii) **Plaintiffs' Findings and Conclusions Re Individual Children.** This subcategory involves the preparation of Plaintiffs' Pre-Trial Proposed Findings of Fact and Conclusions of Law Regarding Individual Children, dated October 29, 2015 (ECF Nos. 485, 486). This document addresses facts and conclusions specific to individual sampled children that are the subject of the Factual Summary described above (para. 58).

(xiii) **Pre-Trial Analysis.** This subcategory involves consideration, conferring, and drafting related to pre-trial tasks and trial strategy, including evidence issues, fact issues, legal issues, organization and preparation of exhibits, and preparation of a trial agenda.

(xiv) **Organization of Trial Materials.** This subcategory involves the organization of materials for trial, including materials specific to witnesses and page proofing of exhibits binders.

(xv) **Opening Oral Argument.** This subcategory involves preparation for plaintiffs' opening statement.

(xvi) **Class Certification.** This subcategory involves consideration of class certification issues prior to trial, apart from the parties' briefing and legal research regarding certification and decertification addressed elsewhere.

(xvii) **Communication with Client.** This subcategory involves communications with the lead plaintiffs.

(xviii) **Fact Research.** This subcategory involves the review and organization of materials related to fact issues in preparation for trial.

(xix) **Legal Research.** This subcategory involves legal research in preparation for trial.

(xx) **Scheduling.** This subcategory involves negotiation of a pre-trial schedule with the District, the corresponding preparation of Parties' Joint Proposed Pre-Trial Schedule, dated July 20, 2015 (ECF No. 454), and other scheduling communications with the District.

(xxi) **Document/Database Management.** This subcategory involves document management by paralegals not dealt with above.

(v) **Plaintiffs' Motion in Limine.** This category involves work associated with Plaintiffs' Motion *in Limine* Regarding Plaintiffs' Factual Summary, dated July 29, 2015 (ECF No. 455). The category is divided into subcategories related to plaintiffs' initial brief (which includes work on supporting documents such as Plaintiffs' Factual Summary), the District's opposition, plaintiffs' reply, and review of the Court's Memorandum Opinion, dated October 23, 2015 (ECF No. 478).

(w) **Defendants' Motion in Limine.** As part of their opposition to plaintiffs' motion *in limine* described above, defendants cross-moved to exclude plaintiffs' Factual Summary. *See* Defendants' Opposition to Plaintiffs' Motion *In Limine* Regarding Plaintiffs' Factual Summary and Cross Motion *In Limine* to Exclude Plaintiffs' Factual Summary, dated August 24, 2015 (ECF No. 460). This category involves work reviewing Defendants' Reply in Support of Cross Motion *in Limine* to Exclude Plaintiffs' Factual Summary, dated September 14, 2015 (ECF No. 465).

(x) **Defendants' Motion to Decertify the Class.** This category involves work associated with Defendants' Motion to Decertify Subclass 1, dated September 21, 2015 (ECF No. 467). The category is divided into subcategories related to the District's initial brief, plaintiffs' opposition, the District's reply, and review of the Court's Memorandum Opinion, dated October 23, 2015 (ECF No. 482).

(y) **Defendants' Mootness Motion.** This category involves work associated with Defendants' Motion to Dismiss the "Second Claim" of the Second Amended Complaint, dated September 21, 2015 (ECF No. 466). The category is divided into subcategories related to the District's initial brief, plaintiffs' opposition, and the District's reply.

(z) **Defendants' Motion for Reconsideration.** This category involves work on Defendants' Motion for Reconsideration, dated September 21, 2015 (ECF No. 468), in which the District asked that the Court reconsider its finding regarding when services must commence upon transition from Part C to Part B services. The category is divided into subcategories related to the District's initial brief, plaintiffs' opposition, and the District's reply.

(aa) **Plaintiffs' Motion for Clarification.** This category involves work associated with Plaintiffs' Consent Motion to Clarify the Record, dated November 2, 2015 (ECF No. 488).

(bb) **Plaintiffs' Motion to Supplement the Record.** This category involves work associated with Plaintiffs' Motion to Submit Supplemental Written Direct Testimony, dated November 2, 2015 (ECF No. 489). The category is divided into subcategories related to plaintiffs' initial brief and plaintiffs' reply.

(cc) **Defendants' Motion to Supplement.** This category involves work associated with Defendants' Motion for Leave to Supplement Written Direct Examination of Sean Compagnucci, dated November 3, 2015 (ECF No. 490). The category is divided into subcategories related to plaintiffs' opposition, the District's reply, and the Court's decision.

(dd) **Trial.** This category involves the trial and preparations over the trial period, including preparation for closing arguments.

(ee) **Defendants' Second Mootness Motion.** This category involves the work associated with Defendants' Motion to Dismiss the "Second Claim" of the Second Amended Complaint, dated February 5, 2016 (ECF No. 510). The Court had "DENIED without prejudice to further consideration post-trial" the District's previous motion of the same name. Order, dated October 23, 2015 (ECF No. 483). The category is divided into subcategories related to the District's initial brief, plaintiffs' opposition, the District's reply, and the Court's decision.

(ff) **Post-Trial Activities**

(i) **Exhibits.** This subcategory involves work related to exhibits after trial, including Plaintiffs' Notice Regarding Plaintiffs' Exhibit List, dated November 24, 2015 (ECF No. 502).

(ii) **Plaintiffs' Findings and Conclusions.** This subcategory involves the preparation of Plaintiffs' Post-Trial Proposed Findings of Fact and Conclusions of Law (ECF No. 511-1). This involved updating the version of this document that plaintiffs prepared prior to trial, including addressing issues and evidence that arose at trial, reviewing the trial transcripts and adding citations to the trial testimony, and addressing arguments that the District raised at trial or was likely to raise in Defendants' Proposed Findings of Fact and Conclusions of Law. The document ultimately was 195 pages. Given the volume of material, it took a substantial amount of time to consolidate the material and present it in a way that was accessible.

(iii) **Plaintiffs' Findings and Conclusions Regarding Individual Children.** This subcategory involves updating the pre-trial version of this document to prepare Plaintiffs' Post-Trial Proposed Findings of Fact and Conclusions of Law Regarding Individual Children, dated February 5, 2015 (ECF No. 514-2).

(iv) **Defendants' Findings and Conclusions.** This subcategory involves the review of Defendants' Proposed Findings of Fact and Conclusions of Law, dated February 5, 2016 (ECF No. 513).

(v) **Organization of Trial Materials.** This subcategory involves the organization of materials after trial.

(vi) **Miscellaneous.** This subcategory involves miscellaneous post-trial work, including post-trial discussions and review of the trial transcripts for possible redactions to

protect any confidential child-identifying information before the transcripts were made publicly available.

(gg) **2016 Post-Decision Activities.** This category involves work following the Court's Memorandum Opinion and Findings of Facts & Conclusions of Law, dated May 18, 2016 (ECF No. 520). It is divided into the following subcategories.

(i) **Court's Decision.** This subcategory involves review of the Court's decision, including assessing potential errors, cataloging requirements imposed on the District for monitoring purposes, and conferring with the District after the decision.

(ii) **Communication with Client.** This subcategory involves communications with the lead plaintiffs regarding the decision.

(hh) **Plaintiffs' Motion to Amend Order/Judgment.** This category involves assessing issues with the Court's decision, discussing them with opposing counsel, and preparing Plaintiffs' Consent Motion to Correct This Court's Decision pursuant to Rule 60(a), dated June 17, 2016 (ECF No. 530).

(ii) **Defendants' Motion to Amend Judgment.** This category involves discussion with opposing counsel and review of Defendants' Consent Motion to Correct the Court's Decision, dated June 17, 2016 (ECF No. 529).

(jj) **Monitoring Implementation of Remedy.** This category involves reviewing and organizing documents and updated data and preparing materials to track the District's performance.

(kk) **Settlement.** This category involves time related to settlement efforts. It is divided into subcategories related to work spent preparing for and participating in settlement negotiations in 2012, 2013, 2014, and preparation for possible settlement negotiations in 2016.

(ll) **Legal Research.** This category involves legal research regarding class certification and attorneys' fees, which is not accounted for above, and is divided into corresponding subcategories. Given the class certification issues that have developed throughout this case, it has been important to monitor relevant class certification law. It was also appropriate for plaintiffs to do attorneys' fees research since plaintiffs are seeking that relief.

(mm) **Notice of Appearance.** This category involves preparation of notices of appearance.

(nn) **Counsel's Motion to Withdraw.** This category relates to the Consent Motion to Withdraw Appearance of Jeffrey Gutman as Class Counsel for Plaintiffs, dated October 30, 2014 (ECF No. 419).

(oo) **Case Administration.** This category includes one subcategory (ECF Management), which is for paralegal work managing ECF filings in TPM's document management system.

78. The time records in Plaintiffs' Exhibits 11 and 12 with regard to the Child Find Rule 23 Petition (the District's attempted interlocutory appeal) are organized by the categories and subcategories set forth below.

(a) **Petition for Review.** This category involves the District's Petition for Permission to Appeal under Federal Rule of Civil Procedure 23(f), dated November 22, 2013 (ECF No. 1467728). The work is subcategorized according to the petition, plaintiffs' motion for an extension of time to answer, the answer, and defendant's reply.

(b) **Defendants' Motion to Stay.** This category involves Petitioner's Motion to Order a Stay of Discovery, dated December 24, 2013 (ECF No. 1472227), which the District filed in the court of appeals requesting a stay of discovery in this Court. The work is divided into

subcategories that involve reviewing the District's initial brief, preparing the opposition, and reviewing the District's reply.

(c) **Case Administration.** This category includes one subcategory (ECF Management), which is for paralegal work managing ECF filings in TPM's document management system.

EXPENSES ACCRUED DURING PERIOD 2

79. In this application, TPM has also requested reimbursement for the expenses that we incurred during Period 2. These are the type of expenses which we would bill to paying clients and that law firms typically charge their clients.

80. As described above (para. 15), for Period 2, TPM paid plaintiffs' experts \$137,001.26 for their work, but they are only seeking compensation for \$1,809.25 of that amount. In addition, TPM accrued other Period 2 expenses of \$67,129.64 (Pl. Ex. 14), for a total of \$68,938.89 for Period 2 expenses.

81. Plaintiffs' Exhibit 14 is a summary of the Period 2 expenses other than expert expenses. In Plaintiffs' Exhibit 14, the expenses are separated by billing "client" (*see* para. 74 above) and by the following categories:

- (a) **Conference Calls.** These were the costs of conference calls.
- (b) **Document Production B&W.** TPM now uses this category for printing and copying of B&W pages and the scanning and faxing of all pages, for which TPM charges 15 cents per page.
- (c) **Document Production Color.** TPM now uses this category for printing and copying of color pages, for which TPM charges 25 cents per page.
- (d) **Document Production External.** These were the costs for copying and binding that were not able to be done in-house.

- (e) **Documents and Reference Materials.** These were the costs to obtain reference material related to hourly rates in the District.
- (f) **Local Travel.** These were the costs of taxi travel in Washington, D.C.
- (g) **Messenger Delivery Fees.** These were the costs for local delivery of documents.
- (h) **PACER Court Docket System.** These were the fees charged for use of the Court's PACER docket system.
- (i) **Postage.** These were the postage costs.
- (j) **Transcript/Reporting Fees.** These were the costs for deposition and trial transcripts.
- (k) **Westlaw.** These were the costs for Westlaw computerized legal research.
- (l) **Witness Fees.** This was the cost that plaintiffs' counsel paid defendants, pursuant to F.R.C.P. Rule 26(b)(4)(E)(i), for time by their expert related to her deposition. Having prevailed, plaintiffs are entitled to a refund of that expense.

HOURLY RATES

82. As discussed more fully in plaintiffs' memorandum (Section I), plaintiffs request that this Court award them fees based on the reasonable hourly rates from the *Laffey* Matrix updated to the present using the Legal Services Index ("LSI"). To obtain hourly rates for the work on this case, plaintiffs applied the following methodology. First, plaintiffs began with the *Laffey* Matrix, as it was updated through May 31, 1989, in *Save Our Cumberland Mountains v. Hodel*, 857 F.2d 1516 (D.C. Cir. 1988). Second, plaintiffs obtained data for the legal services component ("LSI") of the Consumer Price Index ("CPI") produced by the Bureau of Labor Statistics of the United States Department of Labor. Pl. Ex. 22. Third, plaintiffs applied the LSI to the *Laffey* matrix rates for each experience level in order to produce a current hourly rate for

each experience level.¹² These calculations are set forth in Plaintiffs’ Exhibit 23. This is the same methodology used to produce the LSI *Laffey* Matrix affirmed in *Salazar v. District of Columbia*, 809 F.3d 58, 64-65 (D.C. Cir. 2015)(“*Salazar V*”). Under this methodology, the rates applicable to this application are:

Years Out of Law School	Hourly Rate
20 th +	\$826
11 th -19th	\$686
8 th -10th	\$608
4 th -7th	\$421
1 st -3 rd	\$342
Paralegals/Law Clerks	\$187

83. Plaintiffs are requesting the hourly rate applicable to the experience level of each attorney at the time that he or she performed the work in question. Plaintiffs’ summaries of time by category (Pl. Exs. 5 and 11) show the lodestar amounts computed on the basis of these hourly rates.

84. Although plaintiffs seek compensation at the hourly rate applicable to the experience level of each attorney at the time the work was performed, they seek compensation based on current hourly rates for the applicable experience level to account for the delay in payment. *See Missouri v. Jenkins*, 491 U.S. 274, 283-284 (1989).

¹² Specifically, the LSI for June of each year, starting with 1989, was divided by the LSI for the preceding June. This results in the adjustment factor. The matrix rates from the preceding year are multiplied by the adjustment factor to get the next year’s rates. See Pl. Ex. 23. For example, the LSI for June 1989 (114.6) is divided by the LSI for June 1988 (107.1). The result (1.070028) is the adjustment factor for updating rates from the year from June 1, 1988, to May 31, 1989, to the year from June 1, 1989, to May 31, 1990. Each rate in the year from June 1, 1988, to May 31, 1989, is multiplied by the adjustment factor to produce the rate for that experience level for the next year. Multiplication of the 20+ experience level rate (\$265) by the adjustment factor (1.070028) gives the rate of \$284 for the next year. The adjustment factor for each period and the *Laffey* rates for each year from 1989 to the present are set forth in Plaintiffs’ Exhibit 23. The LSI for each of the years from 1988 to the present is set forth in Plaintiffs’ Exhibit 22.

85. Our firm bills paralegal and law clerk time to its paying clients in the same manner as attorneys' time. As a result, we have included such time in the lodestar calculations. *See Missouri v. Jenkins, supra*, 491 U.S. at 284-288.

86. Plaintiffs' Memorandum in Support of Plaintiffs' Motion for an Award of Litigation Costs, Including Attorneys' Fees and Related Expenses (p. 23, n. 26), references the law firms of Harmon & Weiss, now known as Harmon, Curran, Spielberg & Eisenberg, LLP and Galloway & Greenberg. Both firms are small, public interest law firms.

87. The District informed plaintiffs that it intends to argue that the applicable prevailing market rates are those in the USAO Matrix 2015-2017. Plaintiffs have tried unsuccessfully to obtain both of the rates surveys that underlie the matrix. *See* Affidavit of Carolyn Smith Pravlik (Pl. Ex. 26). Even though plaintiffs were not able to obtain both surveys or to confirm whether the USAO Matrix 2015-2017 presents rates for complex federal litigation, plaintiffs have incorporated the USAO Matrix 2015-2017 rates in their comparison to market data described below.

88. Under my direction, we collected and analyzed Washington, D.C., market rates data for complex federal litigation for the period from January 1, 2015, to the present.¹³ These rates are presented in tables as Plaintiffs' Exhibits 47 to 49, based on data from the following sources:

(a) **Westlaw Legal Billing Reports.** Three times a year, Westlaw compiles a report of fee applications filed in bankruptcy cases by firms located in several regions across the United

¹³ We attempted to compile data on market rates as close as possible to the filing of plaintiffs' fee application. As described in paragraph 88(b) below, we searched for fee applications from the time period between January 1, 2015, and August 25, 2016. As described in paragraph 88(c) below, we obtained affidavits from law firm partners setting forth current rates. The affidavit most recently obtained for this purpose is dated September 26, 2016. *See* Pl. Ex. 68.

States, including the District of Columbia. *See* Pl. Exs. 43-45. These reports list, *inter alia*, the law school graduation year, rate billed for attorneys practicing in Washington, D.C., that are covered by the fee applications, and the time period covered by the fee applications. *See ibid.* Exhibits 43 to 45 are excerpts of the Westlaw Billing Reports that apply to Washington, D.C., from 2015 through 2016.

(i) We reviewed the data underlying the Westlaw Billing Reports for errors in each attorney's experience level and geographic location by comparing the information listed in the Westlaw Billing Reports with the information listed in the website biography of the attorney's firm or the attorney's LinkedIn profile. Under the assumption that these online biographies would contain more accurate information than the Westlaw Billing Reports, we excluded data if an attorney's biography showed that the attorney was based in a jurisdiction outside of Washington, D.C.¹⁴ We categorized the experience level of an attorney based on the graduation date in the attorney's online biography.¹⁵

¹⁴ We excluded the billing rate information from the Westlaw Billing Reports based on the location of the following attorneys: a New York-based attorney from Bracewell LLP (John G. Klauberg), Chicago-based attorneys from Foley & Lardner LLP (Mark L. Prager and Gary S. Rovner), a Delaware-based attorney from Landis Rath & Cobb LLP (Matthew B. McGuire), and a New York-based attorney and a California-based attorney from O'Melveny & Myers LLP (Michael Lotito and Adam Ackerman). *See* Pl. Ex. 44. Plaintiffs note that, with the exception of the rate for Mr. McGuire, the rates for all of these attorneys are more closely aligned with the LSI *Laffey* Matrix than the USAO Matrix 2015-2017. *See ibid.* Most of these attorneys bill at rates that are above the LSI *Laffey* Matrix. Their inclusion in the tables prepared by plaintiffs would skew the calculation of average rates in plaintiffs' favor.

¹⁵ The decision to categorize the experience of an attorney according to the firm biography was conservative. The Westlaw Billing Report for December 2015 (Pl. Ex. 44) lists the graduation date of Emily B. Slavin of Arent Fox as 2013, whereas her firm biography lists her graduation date as 2012. Assuming that the firm biography is correct, plaintiffs have categorized her experience level at the time of the Arent Fox fee application (between 7/5/2015 and 10/31/2015) as four-to-seven years rather than one-to-three years. This assumption results in a rate more closely aligned with the USAO Matrix 2015-2017 than the LSI *Laffey* Matrix.

Similarly, the Westlaw Billing Report for May 2016 (Pl. Ex. 45) lists incorrect graduation dates for John P. Quinn of Akin Gump, Daniel A. Bress of Kirkland & Ellis, Charles D. Wineland, III,

(ii) We also reviewed the Westlaw Billing Reports to ensure that rates relate to partners, associates, and paralegals. We did not use rates for other individuals such as staff attorneys, summer associates, special counsel, counsel, of counsel, senior counsel, and the like.

(b) **Fee Applications.** We have assembled affidavits and other court filings prepared by attorneys and other professionals familiar with rates in the Washington, D.C., legal market, which were filed in other cases and which describe Washington, D.C., market rates. These filings are Plaintiffs' Exhibits 56 to 65.

(i) These affidavits were collected by searching for fee applications in Westlaw and the electronic case filing ("ECF") systems of each court. Searches in Westlaw were focused on fee applications in the United States District Court for the District of Columbia, requesting fees for attorneys and paralegals whose offices were based in the District of Columbia, from the time period between January 1, 2015, and August 25, 2016. We chose this time period because it encompasses the same time period as the Westlaw Billing Reports and, in addition, contains fee applications based on the most up-to-date billing rates available.

(ii) In our search of fee applications, we disregarded information in which (1) the firm requested rates for years outside of the relevant time period (*i.e.*, prior to 2015); (2) the individuals for whom rates were requested were not Washington, D.C.-based attorneys or paralegals (*i.e.*, their offices were not located in the District of Columbia); (3) the firm did not describe the experience level of the attorneys involved in the litigation (based on the number of years out of law school or year of bar admission); (4) the firm requested rates set forth in either

of Kirkland & Ellis, C. Frederick Beckner, III, of Sidley Austin, and Benjamin Beaton of Sidley Austin. Each of their correct graduation dates, according to their online biographies, places them in a higher experience category. However, their rates are so high that this correction does not affect the result that their rates are more closely aligned with the LSI *Laffey* Matrix than the USAO Matrix 2015-2017. *See also* Pl. Ex. 47, nn. 5, 15, 26.

the LSI *Laffey* Matrix, the USAO *Laffey* Matrix, or the USAO Matrix 2015-2017 (*i.e.*, not the firm's regular billing rates); (5) the firm requested rates allowable under the Equal Access to Justice Act;¹⁶ (6) the case would not be classified as complex federal litigation (*e.g.*, personal bankruptcy); (7) the individuals for whom fees were sought had titles other than partner, associate, or paralegal; and (8) the case involved individual IDEA claims.¹⁷ If we found documents listing a firm's billing rate for the same attorney for multiple years, we used only the documents reflecting the most recent rates. We did not use additional documents listing the same or similar rates for the same year for attorneys with the same experience level.

(c) Affidavits and Declarations from Partners at Washington, D.C. Law Firms.

We asked partners of Washington, D.C., law firms for information about their firms' billing rates. We obtained the following affidavits or declarations containing rates information based on this request: Affidavit of Cyrus Mehri (Pl. Ex. 17); Affidavit of Nathan Lewin (Pl. Ex. 67); Affidavit of Barry Coburn (Pl. Ex. 68).

89. Based on the data described in paragraph 88, we created three sets of tables: (1) 2015-2016 Range of Firm Billing Rates Table ("Rates Range Table") (Pl. Ex. 47); (2) 2015-2016 Average Firm Billing Rates Table ("Average Rates Table") (Pl. Ex. 48); and (3) 2015-2016 Percentage Difference in Billing Rates Tables ("Percentage Difference Tables") (Pl. Ex. 49). The tables compare market rates from 2015 to 2016 with current (2016-2017) rates under the LSI *Laffey* Matrix, the USAO Matrix 2015-2017, and the USAO *Laffey* Matrix. Below is an explanation of how we prepared these tables:

¹⁶ Fees under the Equal Access to Justice Act are capped at \$125 per hour. 28 U.S.C. 2412(d)(2)(A).

¹⁷ Cases involving individual IDEA claims may involve complex or non-complex litigation. In order to avoid making case-by-case determinations as to this issue, plaintiffs chose to ignore entirely the fee applications filed in individual IDEA cases.

(a) The tables are organized by the *Laffey* experience categories and firm. If the information sources described above contain only one billing rate for a particular *Laffey* experience category (e.g., one attorney that graduated from law school more than 20 years ago), we included that rate. If the information contained a range of rates for a particular *Laffey* experience category, we included the full range. If the information did not contain any rates for a particular *Laffey* experience category, we left the corresponding cell blank. We rounded all rates to the nearest dollar.

(b) As described in paragraph 88 above, market data were obtained from information sources for the time period between January 1, 2015, and the present. Although plaintiffs are requesting LSI *Laffey* Matrix rates for the time period between June 1, 2016, and May 31, 2017, there is little market data within that time period, since the period has just begun. Thus, the tables rely on rates evidence from the closest time period for which evidence is available, 2015 to 2016, as evidence for the 2016-2017 market rates. The comparison between 2015-2016 market rates and 2016-2017 LSI *Laffey* Matrix, USAO Matrix 2015-2017, and USAO *Laffey* Matrix rates is useful and conservative, since it shows that older market rates are closer to the current LSI *Laffey* Matrix rates than the current USAO Matrix 2015-2017 rates or USAO *Laffey* Matrix rates.

(c) The USAO Matrix 2015-2017 (Pl. Ex. 24), which is the rates matrix currently used by the USAO, includes rates for the 2015-2016 rates period and the 2016-2017 rates period. We only used the 2016-2017 rates from the USAO Matrix 2015-2017 for the comparison with market data presented in Plaintiffs' Exhibits 47 to 49.

(d) In the USAO Matrix 2015-2017, the experience levels have changed as compared to the earlier USAO *Laffey* Matrix and the LSI *Laffey* Matrix. Compare Pl. Ex. 24 (USAO

Matrix 2015-2017) with Pl. Ex. 25 (USAO *Laffey* Matrix) and Pl. Ex. 23 (LSI *Laffey* Matrix). In order to present the comparison in Plaintiffs' Exhibits 47 and 48, plaintiffs presented the USAO Matrix 2015-2017 using the *Laffey* Matrix experience levels, but using the highest USAO Matrix 2015-2017 rate applicable to the experience level for the rates year 2016-2017. For example, the *Laffey* Matrix has an experience level of 20+ years (Pl. Ex. 23) and the USAO Matrix 2015-2017 has three comparable experience levels – 16-20, 21-30, and 31+ years (Pl. Ex. 24) – each with a separate hourly rate for 2016-2017 – \$516, \$543, and \$581, respectively (*ibid.*). For the comparison at the 20+ level, plaintiffs used the USAO Matrix 2015-2017 rate of \$581, which is the highest rate from that matrix applicable to someone at the 20+ level. *See* Pl. Exs. 47-49.

(e) The USAO *Laffey* Matrix was abandoned by the USAO in 2015 in favor of the USAO Matrix 2015-2017. However, to present another point of comparison with market rates, we updated the USAO *Laffey* Matrix from 2014-2015 (the last update available from the USAO) using the former USAO methodology. In updating the USAO *Laffey* Matrix rates, we followed the explanatory notes released by the USAO in its last update. *See* Pl. Ex. 25. We relied on the USAO *Laffey* Matrix rates from 2014-2015 (*ibid.*) as a baseline. Following the former USAO methodology, we calculated an adjustment factor by dividing the All-Items CPI of the update year (from May 2016) by the All-Items CPI of the baseline year (from May 2014). *See* Pl. Ex. 25; Pl. Ex. 46. These rates were rounded to the nearest multiple of \$5 (up if within \$3 of the next multiple of \$5). *See* Pl. Ex. 25, n. 3. The resulting rates are set forth in the columns labeled “USAO *Laffey* Matrix” in Plaintiffs' Exhibits 47-49.

(f) In the Rates Range Table and the Average Rates Table, we shaded cells red or blue based on a comparison between the 2015-2016 market data, the LSI *Laffey* Matrix, and the USAO Matrix 2015-2017. We did not shade cells based on a comparison between market data

and the USAO *Laffey* Matrix. If the average (mean) rate for a particular *Laffey* experience level was numerically closer to the corresponding rate in the LSI *Laffey* Matrix than the corresponding rate in the USAO Matrix 2015-2017, we shaded the cell red in the rates tables. *See* Pl. Exs. 47-48. If it was numerically closer to the corresponding rate in the USAO Matrix 2015-2017 than the corresponding rate in the LSI *Laffey* Matrix, we shaded the cell blue in the rates tables. *Ibid.* The tables are overwhelmingly red, showing that the LSI *Laffey* Matrix is well-aligned with the D.C. market.

(g) The Rates Range Table (Pl. Ex. 47) identifies market rates from January 1, 2015, to the present, and compares those rates to the LSI *Laffey* Matrix rates, the USAO Matrix 2015-2017 rates, and the USAO *Laffey* Matrix rates for the period from June 1, 2016, to May 31, 2017. We identified the date range for the affidavit or fee application. If a firm had multiple fee applications over the relevant period, we identified the date range that includes those fee applications and the range of rates that correspond to those fee applications.

(h) After we prepared the Rates Range Table (Pl. Ex. 47), we prepared the Average Rates Table (Pl. Ex. 48), in which we identified the average of the range of rates for each *Laffey* experience category for each firm, or, where there was not a range of rates for a particular category, identified the only rate available. We then compared those average rates to the corresponding 2016-2017 rates under the LSI *Laffey* Matrix and the USAO Matrix 2015-2017.

(i) The Average Rates Table (Pl. Ex. 48) reports data for 24 firms. The rates for 18 of the firms (or 75%) are aligned primarily with the LSI *Laffey* Matrix with 16 of the firms completely aligned. Two firms have 50% of their rates that align with each matrix. The rates of 4 of the 24 firms (or 16.66%) are aligned completely with the USAO Matrix 2015-2017.

(j) To further determine whether the LSI *Laffey* Matrix is more closely aligned to the market data average than either the USAO Matrix 2015-2017 or the USAO *Laffey* Matrix, we examined the percentage difference between these three matrices and the Washington, D.C., market rates. To do so, we created the document titled 2015-2016 Percentage Difference in Billing Rates Tables. Pl. Ex. 49. Plaintiffs' Exhibit 49 demonstrates that the market data for 2015-2016 are more closely aligned with the LSI *Laffey* Matrix rates for 2016-2017 than the USAO Matrix 2015-2017 and the USAO *Laffey* Matrix rates. In fact, the market data reflect rates that are higher than the rates in all matrices, and substantially higher than the rates in the USAO Matrix 2015-2017 and the USAO *Laffey* Matrix. The LSI *Laffey* Matrix rates are on average 9.36 percent lower than the market data that plaintiffs identified. The USAO Matrix 2015-2017 rates are far lower, averaging 29.68 percent lower than the market. The USAO *Laffey* Matrix rates are even lower, averaging 36.31 percent lower than the market. In other words, the LSI *Laffey* Matrix far more closely aligns with the prevailing market rates in Washington, D.C., than the USAO Matrix 2015-2017 or the USAO *Laffey* Matrix.

90. The rates evidence we present is the same type of evidence we presented in *Salazar III and IV*. The evidence presented here is not the exact same evidence as presented in *Salazar* because that evidence related to rates for an earlier time period. Plaintiffs' market data evidence also includes evidence of billing rates from periods prior to 2015. *See* Pl. Exs. 40-42; 50-53.

* * *

91. TPM has not received any payments from the plaintiffs for their time and expenses litigating this case and, with the exception of payments from the District related to the prior fee award relating to the motion to compel (*see* para. 33 above), and an agreement related

to fees related to the experts' Period 2 depositions (*see* para. 15 above), TPM has not received any payments for its fees and expenses that have accrued during the long course of this litigation.

92. For work done during Period 1, with the billing reductions explained above (paras. 31-33, 42-43), TPM is requesting attorneys' fees of \$3,371,131.27 for the work of TPM attorneys and \$190,817.28 for expenses incurred by TPM. For work done during Period 2, with the billing reductions explained above (paras. 68-70), TPM is requesting attorneys' fees of \$5,823,226.84 for the work of TPM attorneys and \$68,938.89 for expenses incurred by TPM. Those fees and expenses are summarized in Plaintiffs' Exhibit 4.

93. In this affidavit, I have attempted to describe, as concisely as possible, the work that has been performed and the expenses incurred. The firm has maintained detailed records of its work and expenses. These records will enable me, if necessary, to supplement the description of any of the work or expense categories that I have described above. Thus, if the Court requests, I would be pleased to expand my discussion of any category, the nature of the work or expense, or the amount of time expended or expenses incurred.

94. Pursuant to 28 U.S.C. 1746, I declare under penalty of perjury that the foregoing is true and correct. Executed on September 28, 2016.

/s/ Bruce J. Terris
BRUCE J. TERRIS

Plaintiffs' Exhibit
2
 Civ. No. 05-1437 (RCL)

Timekeepers Chart for Terris, Pravlik & Millian, LLP
D.L. v. District of Columbia,
 Civ. No. 05-1437 (D.D.C.), USCA No. 11-7153 (D.C. Cir.), USCA No. 13-8009 (D.C. Cir.)

Initials	Timekeeper	Position	Year of Law School Graduation	Experience Level	Effective Period	Rate
AK	Andrew F. Kirtley	Law Clerk	2014		Before 12/1/14	\$187.00
		Contract		1-3	12/1/14 - EOE ¹	\$342.00
ARK	Alexander R. Karam	Associate	2004	4-7	6/1/07 - EOE	\$421.00
BJT	Bruce J. Terris	Partner	1957	20+	Always	\$826.00
BSD	Benjamin S. Davis	Law Clerk	2014		Before 12/17/14	\$187.00
		Associate		1-3	12/17/14 - Present	\$342.00
CSP	Carolyn Smith Pravlik	Partner	1980	20+	6/1/99 - Present	\$826.00
EAB	Emily A. Benfer	Associate	2005	1-3	6/1/05 - EOE	\$342.00
EJL	Elisabeth J. Lyons	Of Counsel	1996	11-19	6/1/06 - EOE	\$686.00
ET	Ehsan Tabesh	Associate	2010	1-3	6/1/10 - EOE	\$342.00
JDG	Janice D. Gorin	Associate	2004	4-7	6/1/07 - EOE	\$421.00
JML	Jane M. Liu	Associate	2005	4-7	6/1/08 - 5/31/12	\$421.00
		Associate/Partner		8-10	6/1/12 - 5/31/15	\$608.00
		Partner		11-19	6/1/15 - EOE	\$686.00
KLM	Kathleen L. Millian	Partner	1985	11-19	6/1/95 - 5/31/04	\$686.00
		Partner		20+	6/1/04 - Present	\$826.00

1. EOE is the End of Employment at Terris, Pravlik and Millian.

LES	Lauren E. Seffel	Associate	2010	4-7	6/1/13 - EOE	\$421.00
MGW	Michelle Weaver	Of Counsel	2006	8-10	6/1/13-EOE	\$608.00
MLH	Michael L. Huang	Associate	2007	4-7	6/1/10 - 5/31/14	\$421.00
NFS	Nicholas F. Soares	Associate	2012	1-3	6/1/12 - 5/31/15	\$342.00
		Associate		4-7	6/1/15 - Present	\$421.00
PAS	Patrick A. Sheldon	Associate	2004	8-10	6/1/11 - 5/31/14	\$608.00
SSM	Shina Majeed	Associate	2000	4-7	6/1/03 - 5/31/07	\$421.00
		Associate		8-10	6/1/07 - EOE	\$608.00
TAG	Todd A. Gluckman	Associate	2005	4-7	6/1/08 - 5/31/12	\$421.00
		Associate/Partner		8-10	6/1/12 - 5/31/15	\$608.00
		Partner		11-19	6/1/15 - Present	\$686.00
AH	Arya Hariharan	Paralegal				\$187.00
AL	Allison Landwehr	Paralegal				\$187.00
ALC	Ashley L. Connelly	Paralegal				\$187.00
CAN	Christian A. Nuñez	Paralegal				\$187.00
DPR	Daniel P. Rathbun	Paralegal				\$187.00
ENR	Emily N. Ryder	Paralegal				\$187.00
ERG	Emily R. Gregg	Paralegal				\$187.00
JAH	Jansen A. Hahn	Paralegal				\$187.00
JDP	Jeremy D. Padow	Paralegal				\$187.00
JPB	Jocelyn P. Blier	Paralegal				\$187.00
KAD	Kyle A. DeCant	Law Clerk				\$187.00

KW	Kevin Wadzuk	Paralegal				\$187.00
LAB	Larnies A. Bowen	Paralegal				\$187.00
LLC	Laura L. Campbell	Paralegal				\$187.00
MM	Megan Murray	Paralegal				\$187.00
OB	Orlando Barrios	Paralegal				\$187.00
SMO	Sara M. O'Keefe	Paralegal				\$187.00
ZSF	Zenia Sanchez Fuentes	Law Clerk			Before 12/1/05	\$187.00

Plaintiffs' Exhibit
3
Civ. No. 05-1437 (RCL)

EMILY A. BENFER

3039 Macomb Street, NW Apartment 32 ■ Washington, DC 20008 ■ emily.benfer@gmail.com ■ (202) 580-5581

EXPERIENCE

Terris, Pravlik & Millian, LLP, Washington, D.C., Associate **Sept. 2007 - Apr. 2008**
▪ Litigated special education class action in federal court.

Washington Legal Clinic for the Homeless, Washington, D.C. **Aug. 2005 – Aug. 2007**
Awarded Arnold & Porter Equal Justice Works Fellowship

- Designed and implemented *DC HEART*; a project created to Defeat Child and youth Homelessness through Education, legal Advocacy, creative Resources, and community Teamwork to improve shelter conditions, case management, access to education, and increase services available to youth.
- **Litigation and Client Representation**
 - Drafted and implemented a strategy to improve conditions in D.C. homeless shelters by filing housing code violation cases and created coalitions with city administrators and shelter-tenant associations.
 - Represented clients in the first challenges under the newly enacted Homeless Services Reform Act to enforce client rights including the receipt of case management and referral services.
 - Represented clients in emergency evictions from shelter, terminations from public benefits programs, and school expulsions or enrollment denials related to homelessness.
- **Policy Work**
 - Drafted, introduced and implemented City Council legislation that removed barriers and increased access to education and resources for homeless children.
 - Gave presentations, lobbied and built relationships with City Council and Board of Education members to compel the D.C. to apply for McKinney-Vento Homeless Assistance Act funding for the first time in eleven years and increased funding to support education of homeless youth.
- **Client Outreach, Mobilizing and Training**
 - Designed and conducted workshops for homeless parents and runaway youth on rights in education, shelter, housing, and advocacy skills.

Chambers of the Honorable David Hamilton, Indianapolis, IN **Aug. - Dec. 2004**
United States District Court, Southern District of Indiana, Court Extern

- Researched and drafted opinions on cases under the Social Security and Family Medical Leave Act.

Lawyers' Committee for Civil Rights, Washington, D.C., Law Clerk **May - Aug. 2004**

- Wrote sections of a voting rights manual preventing disenfranchisement of ex-felons, college students, and people who are homeless for the Voting Rights Project and Election Protection campaign.
- Identified legal issues facing African American women for presentation at United Nations Beijing + 10.
- Researched and wrote memoranda on legal issues for the Housing and Community Development Project.

Washington Legal Clinic for the Homeless, Washington, D.C., Law Clerk May - Aug. 2003

- Investigated and wrote legal complaints, briefs, and memoranda on housing conditions, criminalization of homelessness, landlord-tenant, and public benefits.
- Designed and administered a survey of shelter residents and created a report used to support passage of the Homeless Services Reform Act. Investigated and wrote legal complaints, briefs, and memoranda.

New Haven Legal Assistance Association, New Haven, CT, Law Clerk Jan. - Aug. 2002

- Assisted attorneys in divorce, domestic violence, child custody, public benefits, and landlord-tenant cases.
- Assisted clients in their employment and housing search, relocation, and educational attainment.
- Conducted and analyzed Community Needs Survey and reported findings to the Board of Directors.
- Planned the school outreach section of the Connecticut Bar Association's annual Law Day activities.
- Initiated 911-cell phone drive for victims of domestic violence.

United States Peace Corps, Thailand, Belize & Zimbabwe, Volunteer Jan. 2000 – Dec. 2001

- Identified local needs and worked with villagers to improve rural areas, farming techniques and nutrition.
- Organized trainings for teachers to improve technique and expand knowledge basis.
- Spearheaded a scholarship program for rural students, which funded clothing, books, and transportation.

EDUCATION

J.D. cum laude Indiana University School of Law, Indianapolis, IN, GPA 3.58, top 13% May 2005

- *Indiana International and Comparative Law Review*, Student Note Editor
- Moot Court, Order of the Barristers, ABA Appellate Advocacy Competition Advocate (2004, 2005)
- Indiana University Equal Justice Works: President (2004-2005), Executive Board (2003)
- Equal Justice Works (National): Council Vice President (2002-2003)
- Voting Rights Campaign, Chairperson (2004)
- American Constitution Society member, conference attendee (2003-2005)
- Indiana University Loan Repayment Assistance Program, Founder, Co-Chair (2002-2005)

B.A. English and Writing cum laude Providence College, Providence, RI, GPA 3.8

May 1999

- Cowl Newspaper Staff Writer, Alembic Literary Magazine Editor, Social Justice President, Habitat for Humanity Trip Leader, Urban Action, Women's Shelter Volunteer, Friar's Club

Cambridge University - Cambridge, UK, Junior Year Abroad (1997-1998)

University of Iowa - Iowa City, IA, Graduate Fiction Program (1998)

PUBLICATIONS AND PUBLIC SPEAKING

- *In the Best Interests of the Child?: An International Human Rights Analysis of the Treatment of Unaccompanied Minors in Australia and the United States*, 14.3 IND. INT'L & COMP. L. REV. 729 (2004).
- *Shaking a Cup: Panhandling in Indianapolis*, NUVO, Mar. 3, 2004.
 - *Society of Professional Journalists Award* (2005)
- Stand Up For Kids Community Summit, Panel Speaker (2006)
- Pro Bono Advisory Council & Program, Panel Speaker, Participant (2002-2005)

- Homelessness Awareness Panel, Moderator, Planning Committee Chairperson (2004)
- Protective Order Pro Bono Program Training, Panel Speaker, Volunteer (2002-2005)
- Equal Justice Works Career Fair and Conference, Panel Speaker (2004)
- Norman Amaker Midwest Public Interest Law Retreat, Panel Speaker, Organizer (2003)

AWARDS AND SCHOLARSHIPS

National Awards: National Association of Women Lawyers Outstanding Law Student (2005); American Bar Association Judy M. Weightman Memorial Public Interest (2004); Equal Justice Works Martindale Hubbell Exemplary Public Service (2003)

District of Columbia Award: Frederick B. Abramson Fellowship for advancing the public interest in law (2005)

Pro Bono Awards: Dean Norman Lefstein Award of Excellence for over 800 hours of pro bono service (2005); John Paul Berlon Pro Bono Award, Class of 2005 (2005); Indianapolis Bar Association Bar Foundation Pro Bono Award (2004); Heartland Pro Bono Council Law Student Pro Bono Award (2003)

Law School Awards: Indiana University School of Law Faculty Prize, the only award granted by faculty and presented during graduation ceremony in recognition of outstanding scholarship, leadership, and service (2005); Indiana International & Comparative Law Review Outstanding Student Note Editor Award (2005)

Law School Scholarships: Eli Lilly Alumni Scholarship for superior academic achievement, character, and leadership (2004); Velma Dobbins Scholarship for academic achievement, integrity, compassion, and commitment (2004); Honorable William E. Steckler Scholarship for outstanding achievements in the law (2004); Honorable Robert H. Staton Scholarship for commitment to public service (2004); John J. Dillon Memorial Scholarship for academic promise and character (2003, 2004); Indiana University School of Law Alumni Scholarship (2002); Indiana University School of Law Merit Scholarship (2002-2005)

COMMUNITY SERVICE

- Washington Council of Lawyers, Board of Directors (2006-present)
- Washington Council of Lawyers Mentoring Program Facilitator (2006-present)
- District of Columbia McKinney Vento Homeless Assistance Advisory Board (2006-present)
- Homeless Children's Playtime Project, Volunteer (2005-present)
- Equal Justice Works Board of Directors (2002-2003), National Advisory Committee (2004-2005)

BAR ADMISSIONS

State of New York, April 2006; District of Columbia, December 2006

BENJAMIN S. DAVIS

2905 Woodland Drive NW, Washington, DC 20008
Phone: (202) 262-9309 E-mail: ben.seg.davis@gmail.com

EDUCATION

THE UNIVERSITY OF MICHIGAN LAW SCHOOL, Ann Arbor, MI

Juris Doctor, Cum Laude, May 2014 (3.423 GPA)

- Michigan Environmental Law Clinic with the National Wildlife Federation, Winter 2013
- Michigan Journal of Environmental & Administrative Law, Notes Editor

THE UNIVERSITY OF MICHIGAN, Ann Arbor, MI

Bachelor of Arts, graduated with High Distinction, December 2008

- Major: Organizational Studies Minor: Program in the Environment
- Honors: Dean's Merit Scholarship Recipient, 2004-2008
- Study Abroad: University of Belgrano, Buenos Aires, Argentina, Winter 2007

EXPERIENCE

TERRIS, PRAVLIK & MILLIAN, LLP, Washington, DC

Associate September 2014 - Present

Law Clerk Summer 2013

- Represent class action and individual clients in civil rights litigation and environmental citizen suits.
- Conduct ongoing work regarding enforcement of the settlement orders in *ICO v. Honeywell International, Inc.*, which concerns liability under RCRA.
- Drafting pleadings, motions, and legal memoranda for cases in federal district court including
- Represent client in ongoing challenge under the Rehabilitation Act and Title VII for disability discrimination.
- Represent a petitioner in her fair hearing request before the Office of Administrative Hearings for reimbursement for an out-of-pocket Medicaid expense.

INTERNATIONAL CENTRE FOR TRADE AND SUSTAINABLE DEVELOPMENT, Geneva, Switzerland

Geneva International Fellow Winter 2014

- Wrote weekly articles for ICTSD's trade publication, *Bridges Weekly*, about ongoing international trade disputes being reviewed by the World Trade Organization's (WTO) Dispute Settlement Body.
- Wrote a paper detailing the participation of Central American and Caribbean member nations in the WTO Dispute Settlement Mechanism to be presented at a trade law conference.
- Wrote sections of a paper explaining the international trade law implications of a carbon labeling scheme for food in the European Union.

TERRIS, PRAVLIK & MILLIAN, LLP, Washington, DC

Law Clerk Summer 2013

- Drafted, filed, and was granted motions to modify a decision and to refer matters to mediation in the United States Court of Appeals for the Third Circuit.
- Researched and drafted memoranda on class certification for a brief under the Individuals with Disabilities Education Act submitted to the US District Court for the District of Columbia.
- Researched and helped draft a reply brief on the issues of attorneys fees and litigation expenses in connection with a Medicaid class action suit in the US District Court for the District of Columbia.

ENVIRONMENTAL LAW & POLICY CENTER, Chicago, IL

Legal Intern Summer 2013

- Researched and wrote a series of legal memoranda on penalties, associational standing, and general legal strategy, in support of a case in front of the Illinois Pollution Control Board regarding water contamination by a coal mine.
- Performed research regarding the incorporation of energy efficiency savings into PJM's electricity transmission capacity market, including the efforts of individual regional utilities.

BENJAMIN S. DAVIS

2905 Woodland Drive NW, Washington, DC 20008

Phone: (202) 262-9309

E-mail: ben.seg.davis@gmail.com

- Prepared policy briefs comparing the 2013 House and Senate Farm Bills.
- Drafted memoranda outlining the public participation requirements of the Clean Water Act for regional stakeholders participating in the development of water quality trading programs.

U.S. DEPARTMENT OF JUSTICE, Washington, DC

Law Clerk in the Environmental Crimes Section Summer 2012

- Conducted and summarized legal research on various federal environmental statutes, criminal procedure, and rules of evidence.
- Researched and drafted pretrial motions, as well as memoranda on various theories for attaching liability to corporate entities for the criminal acts of its employees, agents, and subsidiaries.

ECO FRIENDLY FOODS, Washington, DC

Sustainability Consultant 2010-2011

- Assessed EFF's operations and developed an energy management plan that maximizes the economic and energy efficiency of the plant and delivery fleet.
- Applied for and obtained a USDA Rural Energy for America Program grant for Eco Friendly Foods to retrofit its processing plant.

ICF INTERNATIONAL, Fairfax, VA

Research Assistant 2009-2010

- Provided benchmarking and communications support, educational tools and corporate energy management strategies to over 200 ENERGY STAR partner organizations across the retail, hospitality, and entertainment sectors, as well as energy service providers, insulation manufacturers, and key industry associations.
- Worked with EPA (client) to redevelop ENERGY STAR Insulation program's insulation product specification, standard operating procedures for product review, and managed stakeholder participation in the process.
- Trained ENERGY STAR partners on energy efficiency best practices and communication strategies.

AUSTIN ENERGY, Austin, TX

Climate Protection Program Intern Summer 2008

- Developed a compact fluorescent lamp recycling program for the city of Austin, compliant with RCRA's Universal Waste Rules.
- Worked with the Austin Climate Protection Program team to develop a strategy for achieving carbon neutrality by 2020.

CENTRO DE DERECHOS HUMANOS Y AMBIENTE, Buenos Aires, Argentina

Assistant to the Executive Director 2007-2008

- Developed lobbying strategy to influence leaders of various Caribbean nations to accept an international green house gas emissions policy.
- Prepared a paper outlining the viability of different biofuel technologies in Argentina.
- Worked on a global initiative offering purchasers of carbon offsets in the voluntary and formal markets a quantifiable, reliable, and verifiable registry of projects that offset carbon emissions.

PUBLICATIONS, SKILLS & INTERESTS

- **Publications:** "Environment & Energy" chapter of *Current Issues*, Close Up Foundation Press 2008
- **Language Skills:** Spanish, proficient at speaking and writing
- **Interests:** Smoking Meat, Scuba Diving, and Traveling in Latin America

TODD A. GLUCKMAN

PROFESSIONAL EXPERIENCE

Terris, Pravlik & Millian, LLP

Partner, Public Interest Litigation

Washington, DC

March 2011-Present

- Represent a class of children with disabilities suing the District of Columbia in federal court for systemic violations of the Individuals with Disabilities Education Act (IDEA) and the Rehabilitation Act
- Represented a relator appealing the dismissal of a False Claims Act case in the Second Circuit
- Represented a plaintiff suing a Maryland college in federal court for disability discrimination and negligence
- Represented a plaintiff suing her former attorneys in District of Columbia Superior Court for legal malpractice committed in the course of her underlying employment discrimination action
- Represented disabled children challenging denials of Medicaid benefits in actions before the District of Columbia Office of Administrative Hearings

White & Case LLP

Associate, Litigation and Arbitration

New York, NY

September 2006-March 2011

Representative Corporate Experience

- Lead associate in successful defense against a \$54 million breach of contract claim: managed 5 associates in an arbitration involving expedited discovery of over 850,000 pages of documents, 22 fact witness depositions, 4 expert depositions, extensive substantive briefing on claims, and two weeks of hearings
- Lead associate in successful defense against a \$1.5 billion *qui tam* claim in federal court related to payment of customs duties
- Represented pension funds opposing the 2009 bankruptcy sale of Chrysler, which raised issues of first impression under the Troubled Asset Relief Program (TARP), with responsibilities including drafting substantive briefs to the district court
- Lead associate in defense of a major U.S. bank in a complex fraud action in federal court related to the Adelphia cable company, with responsibilities including co-management of the discovery process for bank defendants

Representative Pro Bono Experience

- Lead counsel in the successful representation of a community activist in a state court action challenging the New York City Department of Housing Preservation and Development's arbitrary and capricious conduct regarding her property
- Represented an inmate in a federal court action against the State of New York for failure to provide adequate medical care
- Recipient of 2009 White & Case Award for Outstanding Commitment to Pro Bono Legal Services

inMotion Inc.

White & Case Extern, Matrimonial Litigator

New York, NY

January-April 2010

- inMotion (now Her Justice) provides free legal services to victims of domestic violence
- Litigated 6 divorces and 2 child support petitions pending before the New York Supreme and New York Family Courts requiring numerous court appearances
- Trial counsel for a heavily contested child support petition before the New York Family Court
- Successfully briefed and argued an alimony motion before the New York Supreme Court that more than doubled the client's income
- Extensive discovery practice related to attempts to identify funds hidden by recalcitrant adversaries

United States District Court for the District of Arizona

Law Clerk for the Honorable Frederick J. Martone

Phoenix, AZ

September 2005-August 2006

- Drafted civil litigation opinions, assisted in the administration of trials, researched legal issues, and regularly observed court proceedings

Page 1 of 2

EDUCATION

Cornell Law School

JD cum laude, May 2005, 3.65 GPA

- Articles Editor, Cornell International Law Journal
- Studied abroad at the Summer Institute of International and Comparative Law, Université Paris I Panthéon-Sorbonne, Paris, France, Summer 2003

Northwestern University

BA, March 2000, 3.71 GPA, Dean's List

- Majored in Political Science, Minored in Economics
- Studied abroad with Northwestern University in South Africa (Cape Town, Johannesburg, Grahamstown, and Durban), Summer 1998

The London School of Economics and Political Science

General Course (LSE year abroad program), 1998-1999

- Completed coursework in history, law, and economics

INTERSHIPS AND OTHER EXPERIENCE

Tompkins/Tioga County Neighborhood Legal Services (January 2005-April 2005)

Ithaca, NY

Intern: Counseled low-income clients regarding government benefits including Supplemental Security Income, Medicaid and multi-family housing matters

United Nations Office of Legal Affairs, Treaty Section (August-December 2004)

New York, NY

Intern: Prepared memoranda in response to international law queries from United Nations member states and treaty drafting committees and updated content and citations for the *Summary of Practice of the Secretary-General as Depositary of Multilateral Treaties*

Bulletin of the Legal Information Institute (August 2003-May 2004)

Ithaca, NY

Editor: Wrote case summaries of New York Court of Appeals opinions for publication in an online journal that received over 10 million hits per week and that was distributed via email to over 2,000 direct subscribers

United Nations High Commissioner for Refugees (May-June 2003)

Geneva, Switzerland

Intern to Senior Liaison Officer for Human Rights (Department of International Protection): Researched issues related to humanitarian, human rights, and refugee law and wrote a note regarding American and British human rights treaty obligations during the military presence in Iraq that was distributed to the Department of International Protection and the UNHCR Field Office in Iraq

Study of Asian political, economic, and human rights issues (July 2000-Sep. 2001)

S.E. & Central Asia

Independent on-location study including site visits, study of relevant texts, and discussions with civil servants, aid workers, and laypersons—brief selection of countries and issues studied: Indonesia (ethnic and religious conflict under the relocation scheme), Malaysia (deforestation and land rights issues in Malaysian Borneo), Myanmar (the Ne Win regime and human rights issues), Uzbekistan and Turkmenistan (post-Soviet development and human rights abuses), Xinjiang Uighur Autonomous Region, China (human rights abuses and independence movements)

Eagle Scout, Boy Scouts of America (May 1992)

Phoenix, AZ

BAR ADMISSIONS

New York Bar (2006)

District of Columbia Bar (2011)

United States District Court for the Southern District of New York (2006)

United States District Court for the Eastern District of New York (2006)

United States District Court for the District of Columbia (2012)

United States Court of Appeals for the Second Circuit (2007)

United States Court of Appeals for the District of Columbia Circuit (2016)

JANICE GORIN

1301 20th Street, NW, Apt. # 505
Washington, DC 20036
Jgorin@post.harvard.edu
(202) 296-1051

EDUCATION

Harvard Law School, J.D., *cum laude*, June 2004
Harvard Environmental Law Review, Managing Editor
Harvard Negotiation Law Review, Member
Environmental Law Society

University of Florida, B.A., *High Honors*, in History and Political Science, May 2001
Valedictorian of College of Liberal Arts and Sciences, Phi Beta Kappa

EXPERIENCE

Terris, Pravlik & Millian, LLP, Washington, DC, *Associate* September 2007 to present

Represent clients in public interest environmental and civil rights cases, including prosecution of citizen suits under Clean Water Act, investigation of potential RCRA claim, post-judgment monitoring of consent decree in case involving Clean Water Act and RCRA claims, and litigation of class action concerning special education requirements.

Stephoe & Johnson LLP, Washington, DC, *Associate* September 2004 to August 2007

Represented clients in civil litigation and regulatory matters, including opposition by environmental organization to construction of ICC highway in Maryland, challenge by Indian tribe partially on NEPA and NHPA grounds to ski area expansion on tribe's sacred mountain, successful action in D.C. Circuit to overturn FCC rule mandating that television sets receive "broadcast flag" signal, and challenges under dormant Commerce Clause to state taxes imposed on satellite television companies. Concentrated in areas of telecommunications and transportation. Drafted litigation briefs for district and appellate court actions. Performed legal research and analysis.

United States Department of Justice, Environment and Natural Resources Division,
Appellate Section, Washington, DC, *Law Clerk* Summer 2003

Drafted sections of appellate briefs defending United States against claims under Takings Clause of Constitution and CERCLA statute.

Stephoe & Johnson LLP, Washington, DC, *Summer Associate* Summer 2003

Hale and Dorr Legal Services Center, Jamaica Plain, MA, *Student Advocate* Spring 2003

Advocated for low-income clients on public benefits matters. Conducted intake interviews.

Center for International Environmental Law (CIEL), Washington, DC, Intern Summer 2002

Co-authored paper on international trade law implications of environmental labeling programs and article on international pollution law. Edited publication on intellectual property rights of indigenous peoples. Researched initiatives connecting human rights and environmental issues.

Office of U.S. Senator Bob Graham (D-FL), Tallahassee, FL, Intern Summer 2000

Responded to constituent inquiries. Secured information from federal agencies for constituents.

BAR MEMBERSHIP

District of Columbia and Virginia

PUBLICATION

Caught Between Action and Inaction: Public Participation Rights in Voluntary Approaches to Environmental Policy, 24 Stanford Environmental Law Journal 151 (2004)

MICHAEL L HUANG

mhuang@tpmlaw.com • (734) 678-1531 • 919 Florida Ave. NW, #306, Washington, DC 20001
Admitted to practice in New York and the District of Columbia

EXPERIENCE

Terris, Pravlik & Millian, LLP, Washington, D.C.

Partner, Mar. 2016 – Present; Associate, Mar. 2012 – Mar. 2016

Litigate complex civil cases for public interest law practice involving plaintiff-side environmental, employment, and poverty law, including citizen suits under the Clean Water Act and Resource Conservation and Recovery Act, and class actions under the Individuals with Disabilities in Education Act and the Due Process Clause of the Fifth Amendment • Represent clients denied Medicaid benefits before the Office of Administrative Hearings.

The Hon. Erik P. Christian, D.C. Superior Court, Washington, D.C., Law Clerk, Feb. 2010 – Feb. 2012

Manage civil calendar of over 350 cases, and criminal docket from Judge's previous felony and domestic violence assignments • Special familiarity with criminal and civil procedure, motions practice, and post-conviction relief • Drafted orders and opinions

State & Local Legal Center, Washington, D.C., Associate Counsel, Sept. 2007 – Oct. 2009

Co-authored *amicus curiae* merits briefs in the United States Supreme Court on behalf of state and local government organizations, including the National Governors Association, the Council of State Governments, the National Conference of State Legislatures, and the National League of Cities • Cases involved constitutional and statutory issues of civil and criminal law implicating government regulation and policy, including the First, Fourth, Fifth, Sixth, Tenth, Eleventh, and Fourteenth Amendments • Attended Supreme Court oral argument; participated in seminars and presentations.

Georgetown Appellate Litigation Clinic, Washington, D.C., Student Counsel, August 2006 – June 2007

Represented pro se plaintiff as *amicus curiae* before DC Circuit Court of Appeals • Co-wrote brief and reply brief in employment discrimination case against federal agency • Mooted co-counsel in preparation for his oral argument • Observed moot courts at Georgetown's Supreme Court Institute.

Fish & Richardson, P.C., San Diego, CA, Summer Associate, June 2006 – Aug. 2006

Drafted motion for summary judgment in defense of high-technology patent • Prepared research memoranda for intellectual property and commercial litigation.

D.C. Public Defender Service, Appellate Division, Washington, D.C., Law Clerk, June 2005 – Aug. 2005

• Drafted argument for brief on statistical interpretation of genetic evidence • Prepared research memoranda for Appellate Division • Attended criminal trials and participated in Trial Practice Groups.

EDUCATION

Georgetown University Law Center, Washington, DC

Juris Doctor, May 2007

Journal: *The Georgetown Law Journal* - Notes Editor

The Annual Review of Criminal Procedure - Editor

Clinics: Appellate Litigation Clinic; Street Law Clinic (Roosevelt High School)

Activities: Barrister's Council - Moot Court; Asian-Pacific Law Students Association - Board

University of Michigan, Ann Arbor, MI

Bachelor of Science in Philosophy, Economics, December 2002

Minor in Biology

ASSOCIATIONS Co-Chair, Policy and Advocacy Committee of the Asian Pacific American Bar Association - DC (present); Secretary, Board of the Asian Pacific American Bar Association - DC Educational Fund (2012-2014).

ALEXANDER R. KARAM

EDUCATION

COLUMBIA UNIVERSITY SCHOOL OF LAW, *Juris Doctor*, 2004

Honors: Columbia Law Review, Articles Editor (2002-2003)

Lowenstein Public Interest Fellowship (one of three honored in graduating class)

COLUMBIA UNIVERSITY SCHOOL OF SOCIAL WORK, *Master of Science in Social Work*, 2004

HARVARD UNIVERSITY, *A.B. magna cum laude in Government*, 2000

Honors: Certificate in Latin American Studies; Foreign Language Citation in Spanish

LEGAL EXPERIENCE

TERRIS, PRAVLIK & MILLIAN, LLP, Washington, DC September 2007 – May 2011
Associate – Litigate class actions in state and federal court, including suit against District of Columbia for failure to comply with state and federal special education requirements. Litigate employment discrimination case in circuit court of appeals. Represent individual Medicaid beneficiaries in administrative fair hearings challenging denial of benefits.

UNITED STATES DISTRICT COURT, EASTERN DISTRICT OF NEW YORK, Brooklyn, NY

August 2006 – August 2007

Law Clerk to the Honorable Frederic Block, Senior United States District Judge.

SANCTUARY FOR FAMILIES, New York, NY September 2004 – August 2006
Staff Attorney – Represented battered mothers in child neglect, family offense, and custody proceedings in Family Court. Advocated with officials from housing and welfare offices, law enforcement, and public school system to increase the safety and well-being of clients and their children. Coordinated legal services for agency's clinical clients and shelter residents. Provided support to 20 agency lawyers on cases involving the New York City Administration for Children's Services. Supervised law students on intake, research, and writing. Developed outreach and training materials.

NAACP LEGAL DEFENSE AND EDUCATIONAL FUND, INC., Los Angeles, CA Summer 2003

Law Clerk – Researched and wrote legal memoranda on issues of voting rights, employment discrimination in hiring and job assignment decisions, and equal access to public transportation for low-income commuters.

LEGAL AID SOCIETY, JUVENILE RIGHTS DIVISION, Brooklyn, NY Fall 2002 – Spring 2003

Legal Intern – Assisted representation of children in Family Court proceedings to review foster care placement. Performed factual and legal research to develop case strategies.

SANCTUARY FOR FAMILIES, New York, NY June 2002 – May 2003

Legal Intern – Drafted and filed Violence Against Women Act self-petitions for lawful permanent residency. Assisted representation of client in child neglect proceeding and advocated for client's needs upon return of her children from foster care. Responsible for all Spanish-language intakes and referrals during summer internship.

MIGRANT FARMWORKER JUSTICE PROJECT, Belle Glade, FL Summer 2001

Legal Intern – Researched and drafted portions of briefs filed in class action lawsuits on behalf of tree planters under the Fair Labor Standards Act and Migrant and Seasonal Agricultural Worker Protection Act.

Conducted outreach to Mexican and Central American farmworkers to identify health and safety violations in the fields and in labor camps.

THE WORKPLACE PROJECT, Hempstead, NY Fall 2000 – Spring 2001
Legal Intern – Educated Spanish-speaking service industry workers about basic labor rights. Facilitated organization of day laborers against non-paying contractors and assisted negotiation and protest efforts.

OTHER EXPERIENCE

PROJECT RENEWAL, HOLLAND HOUSE, New York, NY Fall 2003 – Spring 2004
Case Manager – Provided case management services, public benefits advocacy, and short-term counseling for SRO tenants presenting needs related to mental illness, HIV/AIDS status, and/or chemical dependency.

ROBERTO CLEMENTE FAMILY GUIDANCE CENTER, New York, NY Fall 2001 – Spring 2002
Family Therapist – Provided family-oriented, culturally sensitive psychotherapy services to Lower East Side community residents.

BAR MEMBERSHIPS

Admitted in New York and the District of Columbia. Member of the United States District Court for the District of Columbia.

LANGUAGES

Fluent in Spanish.

ANDREW FAULKNER KIRTLEY

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EDUCATION

- 2011–2014 **Northeastern University School of Law*** Boston, MA
Juris Doctor
Research Assistant: Prof. Martha F. Davis (Amicus Brief for Guantánamo Bay case in D.C. Circuit)
Teaching Assistant: Prof. Martha F. Davis (Constitutional Law)
Committee Assignments: Agenda Cmte., Admissions Cmte., ABA Reaccreditation Cmte.
Student Activities: Critical Legal Theory Group, SBA, NLG, ACLU, Led campaign to improve recycling
* Northeastern does not rank students or issue honors upon graduation.
- 2013–2014 **Vermont Law School** South Royalton, VT
Master of Environmental Law and Policy, *cum laude*
- 2010–2011 **Harvard University Extension School** Cambridge, MA
Two semesters of graduate-level courses in environmental science, politics, and management
- 2005–2007 **Berklee College of Music** Boston, MA
Bachelor of Music, *cum laude*
Double major in Music Business/Management and Music Production & Engineering
- 2002 **La Sorbonne, Cours de Langue et Civilisation Françaises** Paris, France
Passed highest level of La Sorbonne’s university preparatory studies for non-native French speakers.

LEGAL EXPERIENCE

- Spring 2014 **Human Rights Law Network**, Reproductive Rights Initiative New Delhi, India
Fellow. Fellowship awarded by Northeastern’s Program on Human Rights and the Global Economy. Conducted field work and desk research, wrote fact-finding reports, and drafted rejoinder and memorandum detailing new framework for acid attack compensation filed in the Supreme Court of India.
- Fall 2013 **U.S. Department of Justice**, Environmental Enforcement Section Washington, DC
Law Clerk. Conducted document review and wrote office memoranda on issues of civil procedure, injunctive relief, consent decree entry, and third-party collateral attacks.
- Spring 2013 **Navajo Nation Department of Justice**, Natural Resources Unit Window Rock, AZ
Legal Intern. Drafted legislation to overhaul grazing law for 27,000 square miles of Navajo rangeland. Initiated and led extensive consultation process with six Navajo agencies on the draft legislation.
- Fall 2012 **U.S. Magistrate Judge Ronald L. Ellis**, Southern District of New York New York, NY
Judicial Intern. Drafted Reports & Recommendations in a *pro se* Social Security appeal and damages inquest. Observed discovery dispute hearings, settlement conferences, and other pretrial proceedings.

VOLUNTEER

- 2006–2011 **Lucy Parsons Center Collective** Boston, MA
Managed purchase and major renovation of commercial condominium, events planning, and periodicals inventory for collectively-run bookstore specializing in history and political theory.
- 2008–2009 **Boston Interpreters Collective** Boston, MA
English-as-a-Second-Language (ESL) Teacher. Prepared lesson plans and taught ESL classes to parents of children at a K–8 public school and to residents at a large public housing development.
- 2006 **CURE International Children’s Hospital of Kenya** Kijabe, Kenya
Designed computerized inventory system, protocols, and user’s manual for hospital’s new warehouse.

LANGUAGE **French.** Speak, read, write proficiently. Hold Alliance Française DELF & DALF B1–B3 certificates. Lived in Paris from 2001–2002. Studied at La Sorbonne and French-language photography school.

OTHER Worked as a bicycle courier in Boston from 2008–2010. Play piano and accordion and have taught lessons for both. Bibliophile with a passion for reading and language. Originally from Louisville, KY.

JANE M. LIU

EDUCATION

UNIVERSITY OF PENNSYLVANIA LAW SCHOOL, J.D., May 2005

Honors: Legal Writing

PRINCETON UNIVERSITY, A.B. in Sociology, June 2001

Honors: *magna cum laude*

Isidore Brown Prize for Best Senior Thesis in Sociology

EXPERIENCE

TERRIS, PRAVLIK & MILLIAN, LLP, Washington, DC

Dec. 2008 – present

Associate, Dec. 2008 – Dec. 2012

Partner, Jan. 2013 – Mar. 2016

Represent Medicaid recipients in District Court for the District of Columbia in putative class action challenging due process violations. Represent plaintiff class of condominium purchasers in District of Columbia Superior Court in class action against developer for Condominium Act violation. Recently drafted appellate brief regarding class certification in appeal in Court of Appeals for the District of Columbia Circuit.

COMMITTEE FOR PUBLIC COUNSEL SERVICES, Boston, MA Sept. 2005 – Nov. 2008

Staff Attorney, Public Defender Division

Represented indigent defendants charged with Superior Court jurisdiction felony offenses at all stages up to trial, including arraignments, bail appeals, pre-trial conferences and hearings, motion hearings, pleas and sentencing, as well as probation surrenders. Conducted client interviews and investigation of cases. Prepared and litigated pre-trial motions.

COMMUNITY LEGAL SERVICES, Philadelphia, PA

Spring 2005

Extern, Consumer Law Unit

Represented indigent clients in consumer law cases; assisted with civil litigation attacking predatory lending practices. Performed research and wrote memoranda, including extensive memorandum on invalidating contracts on the grounds of lack of mental capacity. Prepared initial settlement offer letters, interrogatories and discovery requests in mortgage foreclosure cases.

DEFENDER ASSOCIATION OF PHILADELPHIA, Philadelphia, PA

Summer 2004

Interviewed clients. Conducted research and wrote memoranda regarding criminal defense issues. Assisted attorneys with preliminary hearings and trials. Designed and implemented study on Latino/a youth in juvenile system.

PENNSYLVANIA INSTITUTIONAL LAW PROJECT, Philadelphia, PA

Summer 2003

Represented indigent prisoners and institutionalized persons in civil cases involving civil rights violations, immigration law, and disability benefits. Drafted appellate brief. Assisted at trial that successfully challenged unconstitutional prison policies.

BAR ADMISSIONS

Member of the District of Columbia Bar, admitted 2009

Member of the State Bar of Massachusetts, admitted 2005

Member of the Bar of the District Court of the District of Columbia, admitted 2010

Member of the Bar of the Court of Appeals for the District of Columbia Circuit, admitted 2009

Elisabeth Lyons
4410 Leland Street
Chevy Chase, Maryland 20815
202-669-8899
ejlyons@comcast.net

EXPERIENCE:

Terris, Pravlik & Millian

October 2007-present

Of Counsel. Represent class of women in Foreign Service in large class action against Department of State for employment discrimination. Responsible for negotiating relief for class. Represent class of Medicaid recipients in lawsuit against District of Columbia for failure to administer the Medicaid program. Responsible for monitoring consent decree and initiating enforcement actions for violations of consent decree.

Michele Zavos, Attorney at Law Washington, D.C.

October 2003 – May 2006

Adoption Attorney. Represented clients in adoption matters in the District of Columbia and Maryland. Drafted and filed adoption petitions on behalf of adoptive parents in domestic, agency and international adoptions, second-parent adoptions and adoptions from foster care. Practice focused on gay and lesbian adoptions, with specialty in accomplishing non-traditional adoption arrangements.

District of Columbia Superior Court

November 2002 – May 2003

Adoption Clerk to the Honorable Nan R. Shuker

Assisted Judge Shuker in processing adoption petitions in order to clear substantial backlog in court system and assure swift permanency for children. Worked closely with Judge Shuker to efficiently process private and CFSA adoptions. Reviewed adoption files and drafted appropriate court orders to ensure that cases moved forward promptly and were in compliance with relevant laws. Communicated directly with attorneys, pro se petitioners and court personnel to facilitate prompt finalization of cases. Drafted an extensive manual for court personnel to assist them in the processing of private adoptions. Created templates for court orders to ensure that adoption petitioners were in compliance with the relevant laws.

Schweitzer, Scherr and Leichman

1994-October 2005

Adoption/Family Law Attorney. Handled private and CFSA adoptions for law firm. Case-load included agency adoptions, independent adoptions, international re-adoptions, CFSA adoptions, guardianship and custody cases. Handled entire process from client contact to finalization hearing. Appeared regularly in D.C. Court and various Maryland courts in adoption matters. Tried

and won two contested adoption cases in the District of Columbia. Assisted Leslie Scherr and Harvey Schweitzer on many contested or otherwise complex adoption matters. Handled several divorces, including negotiating settlement agreements and appearing in court for divorce proceedings.

Terris, Pravlik & Wagner

1990-1994

Associate. Represented class of plaintiffs in employment discrimination case. Represented individuals in employment matters. Handled all aspects of litigation.

Semmes, Bowen & Semmes

1988-1990

Employment Law Associate. Practiced employment law with focus on advising clients on compliance issues.

EDUCATION:

J.D., 1988 Georgetown University Law Center

B.A., English Literature 1985 Connecticut College

PROFESSIONAL AFFILIATIONS:

- Board of Directors, Cradle of Hope Adoption Center
- Member of the Bar, District of Columbia , admitted 1988
- Member of the Bar, Maryland, admitted 1988

Sameena Shina Majeed

3191 17th Street North, Arlington, VA, 22201; 703.525.04444; shinamajeed@hotmail.com

EDUCATION

NEW YORK UNIVERSITY SCHOOL OF LAW, New York, NY, J.D., *cum laude*, 2000

Honors: Eric Dean Bender Prize
Hays Civil Liberties Fellow, 1999-2000
New York University Review of Law and Social Change, Senior Articles Editor
Teaching Assistant, Civil Procedure I, Professor Helen Hershkoff, Fall 1999

YALE COLLEGE, New Haven, CT, B.A., *cum laude*, May 1995

Honors: Distinction in the Sociology and Women's Studies major
Steere Prize in Women's Studies for the outstanding senior thesis

LEGAL EXPERIENCE

Terris, Pravlik, and Millian, LLP

Associate. Litigate civil rights and complex litigation in the federal courts (*Feb 2005 -*).

Legal Aid Society of the District of Columbia

Skadden Law Fellow and Staff Attorney. Represented individuals in government benefit, family law and housing cases. Established off-site legal clinic in South East D.C. for public benefits cases. Engaged in policy advocacy and community outreach on government benefit issues (*Nov. 2003 - Feb. 2005*).

Urban Justice Center, New York, NY

Skadden Law Fellow. Represented individuals in public benefit cases. Established three off-site legal clinics. Substantially assisted in two class-action cases on behalf of welfare recipients. Conducted trainings and outreach (*Oct 2002 - Oct. 2003*).

United States District Court for the District of Columbia, The Honorable Gladys Kessler

Law Clerk. Substantially assisted in drafting opinions for half of docket. Assisted judge with all stages of civil litigation, including fact and expert discovery, dispositive motions, pre-trial, trial and post-trial matters (*2000 - 2002*).

Koob & Magoolaghan, New York, NY

Legal Intern. Drafted sections of briefs on state and federal questions of law for prisoner's rights litigation for public interest law firm. Wrote interrogatories and document requests (*Spring - Summer 2000*).

Civil Rights Clinic, NYU School of Law, New York, NY

Student Practitioner. Represented female inmates in federal class-action against NYS Department of Corrections in constitutional challenge to cross-gender pat-frisk policy (*Fall 1999-Spring 2000*).

Legal Aid Society, Civil Appeals and Law Reform Unit, New York, NY

Legal Intern. Wrote memoranda for class action lawsuits, including Medicaid class-action and a challenge to NYC's workfare program. Advocated for SSI and welfare recipients. Assisted in preparation of expert reports (*Summer 1999*).

NAACP Legal Defense Fund, New York, NY

Legal Intern. Wrote memoranda on procedural and constitutional questions for affirmative action, desegregation of public schools and employment discrimination cases (*Summer-Fall 1998*).

Research, Education and Advocacy to Combat Homelessness (REACH), New York, NY

Co-Chair. Directed student homeless advocacy group; supervised walk-in legal clinics for clients with public assistance problems (*Fall 1997-Spring 2000*).

Urban Justice Center Workfare Worker's Clinic, New York, NY

Clinic Advocate. Represented indigent clients with Workfare problems in fair hearings (*Fall 1998-1999*).

Human Rights Watch, New York, NY

Research Assistant. Wrote memoranda on enforcement power of International Criminal Court (*1998*).

KATHLEEN L. MILLIAN
1121 12th Street, N.W.
Washington, D.C. 20005
(202) 682-2100, ext. 8478

Education: Stanford Law School J.D., June 1985
Cornell University B.S., Public Policy,
May 1982

Experience:

1992-Present Partner
1987-1991 Attorney
Terris, Pravlik & Millian, LLP
Washington, DC
Represent the plaintiff class in a Medicaid class action against the District of Columbia government. Represent as co-counsel the plaintiff class in a class action concerning the Individuals with Disabilities in Education Act (IDEA). Represent environmental groups in Clean Water Act and RCRA citizen enforcement suits.

1985-1986 Judicial Clerk, Judge James K. Singleton, Alaska Court of Appeals
Anchorage, AK
Researched and wrote bench memoranda on criminal and evidentiary issues. Critiqued opinions substantively and technically. Also served as Acting Magistrate for Third Judicial District of Alaska, handling small claims and traffic court calendar.

Representative Cases:

Interfaith Community Organization, et al. v. Honeywell International Inc., 263 F.Supp.2d 796 (D.N.J. 2003), affirmed, 399 F.3d 248 (3d Cir. 2005), certiorari denied, 545 U.S. 1129 (2005), in which the district court found liability under RCRA and ordered the excavation and removal of 1.5 million tons of toxic hexavalent chromium waste from a 34-acre site in Jersey City, NJ, and a clean-up of the deep ground water and sediments in the Hackensack River.

Michigan, et al. v. EPA, 213 F.3d 663 (2000), in which the court of appeals upheld EPA's Clean Air Act rule requiring midwestern states to control emissions of nitrogen oxides which harm air quality in downwind states.

Friends of the Earth, et al., v. Gaston Copper Recycling Corp., 204 F.3d 149 (2000)(*en banc*), in which the court of appeals found that the plaintiff environmental groups had standing to proceed with their suit under the Clean Water Act.

Salazar, et al. v. District of Columbia, 954 F. Supp. 278 (D.D.C. 1996), in which the district court found the government liable to the plaintiff class of Medicaid applicants and recipients under Section 1983 for failing to comply with the federal Medicaid statute. Other reported decisions in the case include 123 F. Supp. 2d 8 (D.D.C. 2000); 560 F. Supp. 2d 13 (D.D.C. 2008); 560 F. Supp. 2d 6 (D.D.C. 2008); 560 F. Supp. 2d 9 (D.D.C. 2008); 560 F. Supp. 2d 33 (D.D.C. 2008); 557 F. Supp. 2d 147 (D.D.C. 2008); 570 F. Supp. 2d 105 (D.D.C. 2008), affirmed in part and reversed in part on appeal, 602 F.3d 431 (D.C. Cir. 2010); 596 F. Supp. 2d 67 (D.D.C. 2009), on reconsideration in part on appeal; 666 F. Supp. 2d 53 (D.D.C. 2009), appeal dismissed, 367 Fed. Appx. 164 (D.C. Cir. 2010); 685 F. Supp. 2d 72 (D.D.C. 2010).

Public Interest Research Group of New Jersey, et al. v. Powell Duffryn Terminals Inc., 720 F. Supp. 1158 (D.N.J. 1989), in which the court granted a permanent injunction and imposed civil penalties of \$3.2 million under the Clean Water Act on a polluter, affirmed in part and reversed in part on appeal, 913 F.2d 64 (3d Cir. 1990), penalty increased to \$4.085 million, certiorari denied, 498 U.S. 1109 (1991).

Public Interest Research Group of New Jersey, et al. v. Ferro Merchandising Equipment Corp., 680 F. Supp. 692 (D.N.J. 1987), in which the court imposed contempt penalties for a polluter's failure to comply with an injunction to comply with the Clean Water Act.

Bar Memberships: State of New York, District of Columbia, United States Courts of Appeals for the District of Columbia, Third, Fourth, Fifth, Sixth, and Eleventh Circuits, United States District Court for the District of Columbia, and the United States Supreme Court.

Honors: Listed in 2005-2006 edition of *Who's Who in American Law*.

References: Available upon request.

CAROLYN SMITH PRAVLIK

Bar Memberships:

District of Columbia Bar
U.S. District Court for the District of Columbia
U.S. Court of Appeals for the Third Circuit
U.S. Court of Appeals for the Fourth Circuit
U.S. Court of Appeals for the Eleventh Circuit
U.S. Supreme Court

Education:

Law School: Catholic University Law School, J.D., 1980
Undergraduate: College of Notre Dame of Maryland, B.A., cum laude, 1977

Professional Experience:

1981-Present Managing Partner (1990-Present), Partner (1987-Present), Associate (1981-1987), Terris, Pravlik & Millian, LLP Washington, D.C. -- principally public interest litigation in the federal courts including environmental, civil rights and employment litigation for such clients as:

American Canoe Association
Friends of the Earth
The Public Interest Research Group of New Jersey
Hackensack Riverkeeper
Indiana Public Interest Research Group
Sierra Club

Representative Cases:

FOE v. Laidlaw Envtl. Services (TOC), Inc., 528 U.S. 167 (2000), a Clean Water Act citizen suit in which the Supreme Court found that the Fourth Circuit erred in finding the case moot due to availability of only civil penalty relief and not injunctive relief. Supreme Court also held that the citizens had constitutional standing to pursue their claims. Lower court decisions are found at 890 F. Supp. 470 (D.S.C. 1995) and 956 F. Supp. 588 (D.S.C. 1997), and 149 F.3d 303 (4th Cir. 1998).

American Canoe Assn v. Murphy Farms, Inc., 326 F.3d 505 (4th Cir. 2003), a citizen suit under the Clean Water Act where the court ordered the defendant hog farm (a concentrated animal feeding operation (CAFO)) to apply for a National Pollutant

Discharge Elimination System Permit (NPDES). The resulting permit was the first NPDES permit issued to a CAFO in North Carolina.

Interfaith Community Organization v. Shinn, No. 93-4774, slip op. (D.N.J. Nov. 24, 1998), a citizen suit under RCRA's imminent and substantial endangerment provision, in which the court found that the contaminants in Liberty State Park present an imminent and substantial endangerment to park visitors. Almost 300 acres of the park have been fenced and closed to the public as a result.

PIRG v. Hercules, Inc., 830 F. Supp. 1525 (D.N.J. 1993), *rev'd in part and remanded*, 50 F.3d 1239 (3d Cir. 1995), in which the courts addressed the scope of a notice of intent to sue under the Clean Water Act.

PIRG v. Powell Duffryn Terminals, Inc., 720 F. Supp. 1158 (D.N.J. 1989), *aff'd in part, rev'd in part and remanded*, 913 F.2d 64 (3rd Cir. 1990), *certiorari denied*, 498 U.S. 1109 (1991), in which the court enjoined the defendant violation of the Clean Water Act and imposed a penalty of \$4.085 million.

PIRG v. Monsanto Co., 600 F. Supp. 1479 (D.N.J. 1985), in which the court found the defendant liable for numerous violations of the Clean Water Act. The first summary judgment on the issue of liability in a citizen suit under the Act.

PIRG v. Monsanto Co., 600 F. Supp. 1474 (D.N.J. 1985), in which the court upheld the constitutionality of the citizen suit provision of the Clean Water Act, 33 U.S.C. 1365.

PIRG v. Fritzsche, Dodge & Olcott, Inc., 579 F. Supp. 1528 (D.N.J. 1984), *aff'd*, 759 F.2d 1131 (3d Cir. 1985), court held that agency level enforcement by the U.S. Environmental Protection Agency did not bar plaintiffs' citizen suit under the Clean Water Act.

Oct. 1980- Apr. 1981

Attorney in the Solicitor's Honors Program, U.S. Department of the Interior -- involved providing legal advice to a number of the department's organizations: the Secretary's Office, the National Park Service, the Fish and Wildlife Service, and the Office of Surface Mining

June 1978 - June 1980

Law Clerk in the Office of the Solicitor, Division of Surface Mining, U.S. Department of the Interior -- time spent researching and writing portions of several briefs filed in federal district courts. Among the cases were: *Union Carbide v. Andrus*, No. 79-2142

(S.D. W. Va. July 17, 1979) and *Star Coal v. Andrus*, 14 ERC
1325 (S.D. Iowa 1980)

LAUREN E. SEFFEL

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EDUCATION

Harvard Law School, J.D., *cum laude*, May 2010

Activities: Harvard Legal Aid Bureau, Vice President of Practice Standards
Harvard Journal of Law and Gender, Book Review Editor

Washington University in St. Louis, B.A. in English Literature, *summa cum laude*, May 2007

Honors: Mylonas Honorary Scholar, four-year full-tuition merit scholarship

EXPERIENCE

The George Washington University Law School, Washington, DC

Senior Law Career Counselor, August 2016 – Present

Counsel J.D. students and alumni regarding career planning, professional development, and job search strategies. Plan and present workshops on career development and job search skills. Design programming to promote and develop public interest positions and pro bono opportunities for law students. Conduct outreach to public sector employers to identify and develop employment opportunities.

George Mason University School of Law, Arlington, VA

Career Counselor, December 2015 – August 2016

Counseled J.D. students and alumni regarding career planning, professional development, and job search strategies. Coordinated career development programs, including annual small firm networking reception. Revised and updated career exploration and job search resources on intranet site. Advised students regarding course selection and academic matters in partnership with academic advisors. Created print and online promotional materials to publicize career development events.

Terris, Pravlik & Millian, LLP, Washington, DC

Associate, July 2013 – December 2015

Represented plaintiffs in environmental, employment, and civil rights suits in federal court in all phases of litigation. Prepared and participated on trial team for multi-day trial in federal district court, including selection and preparation of exhibits, presentation of pre-trial motions and objections, preparation of expert witnesses, and direct and cross-examination of witnesses. Managed expert discovery, including overseeing editing of expert reports and preparation for depositions. Successfully briefed motions for summary judgment on standing and liability in environmental citizen suit and opposition to motion to decertify class in IDEA suit.

Sanford Heisler Kimpel, LLP, Washington, DC

Associate, September 2011 – July 2013

Represented individuals and named plaintiffs in Title VII and FLSA suits in all phases of litigation. Managed paper and electronic discovery for nationwide gender discrimination class action. Successfully briefed oppositions to summary judgment and motions to dismiss in individual and class action discrimination suits. Prepared and defended depositions of named plaintiffs in nationwide class action. Managed and trained paralegal staff regarding file management, discovery, and client counseling.

Massachusetts Appeals Court, Boston, MA

Law Clerk to Justice R. Malcolm Graham, September 2010 – August 2011

Assisted Justice Graham in all aspects of appellate practice, including preparing pre-argument memoranda, reviewing lower court records, and researching, drafting, and editing written opinions. Reviewed motions for interlocutory relief and drafted appropriate judicial orders.

BAR MEMBERSHIP AND PROFESSIONAL ASSOCIATIONS

Admitted to New York State Bar and District of Columbia Bar

District of Columbia Bar Lawyer Assistance Committee, Law Student Outreach Committee Co-Chair, 2014 – Present

Washington Council of Lawyers, 2014 – Present

Washington Area Legal Recruitment Administrators Association, 2015 – Present

National Association for Law Placement, 2015 – Present

PATRICK A. SHELDON

2828 Connecticut Ave, N.W., Apt. 513, Washington, DC 20008
(202) 204-8469 (work); psheldon@tpmlaw.com

LEGAL EXPERIENCE

Terris, Pravlik & Millian, LLP, Washington, DC April 2010 – Present
Partner

- Represent clients in federal civil rights litigation and environmental citizen suits.
- Conduct ongoing work regarding enforcement of the settlement order in *Salazar v. District of Columbia*, which concerns the provision of Medicaid services.
- Represent individuals with claims regarding provisions of Medicaid services before the District of Columbia Office of Administrative Hearings.

Cleary Gottlieb Steen & Hamilton LLP, Washington, DC Aug. 2005 – March 2010
Associate

- Represented clients in federal civil litigation, including breach of contract claims and suits brought under the Anti-Terrorism Act.
- Represented Guantánamo detainees *pro bono* in petitions for writ of habeas corpus (*Zakirjan v. Bush*), appellate proceedings (*Kiyemba v. Obama*) and in related Freedom of Information Act request.
- Represented a New York state inmate *pro bono* in petition for re-sentencing under amendment to the Rockefeller drug laws and in immigration removal proceedings.

International Criminal Tribunal for the former Yugoslavia, Den Haag, Netherlands Oct. 2004 – Apr. 2005
Associate Legal Officer

- Researched issues of international humanitarian law, analyzed evidence, helped draft Trial Chamber decisions, and assisted in judgment preparation in *Prosecutor v. Slobodan Milošević*.

MacArthur Justice Center, Chicago, IL Sept. 2002 – June 2004
Student Staff Member

- Conducted research for and assisted in drafting Petitioner's Brief on the Merits before the Supreme Court in *Rasul v. Bush*.
- Assisted in drafting *amicus* brief on behalf of U.S. citizens formerly detained abroad for litigation involving implementation of the International Court of Justice opinion in *Case Concerning Avena and Other Mexican Nationals*.
- Researched and drafted memoranda on mental health care in Illinois maximum-security facilities.

Schiff Hardin & Waite, Chicago, IL Summer 2003
Summer Associate

New York County District Attorney's Office, New York, NY Feb. 2000 – July 2001
Paralegal/Trial Preparation Assistant

- Served as lead paralegal on a securities fraud case, including assisting in witness interviews and litigation at trial.

OTHER EXPERIENCE

South Asia Human Rights Documentation Centre (SAHRDC)

Representative, UN Commission on Human Rights, Geneva, Switzerland Mar. – Apr. 2004

- Member of SAHRDC's delegation to the 60th Session of the United Nations Commission on Human Rights in Geneva, Switzerland.

Intern, New Delhi, India

June – Aug. 2002

- Drafted letter to the United Nations Special Rapporteur on Religious Intolerance concerning Pakistan's blasphemy laws.
- Contributed to report on Zimbabwe land reform for the SAHRDC *Human Rights Quarterly*.
- Drafted evaluative report on the New Zealand Human Rights Commission.

Residential Life and Services, Oberlin College, Oberlin, OH

Feb. 1998 – June 1999

Assistant Area Coordinator

- Supervised 14 student staff members in nine residence halls.
- Assisted in developing programming, managing residence hall program budgets, inspecting facilities, and responding to student problems.

American Friends Service Committee, Newark, NJ

July 1997 – Sept. 1997

Intern, Criminal Justice Program

- Assisted in the operations of the Information Service program and the Prison Watch program.

EDUCATION

University of Chicago Law School, June 2004

J.D., with Honors

- Recipient of Chicago Law Foundation Grant (2002).

Oberlin College, June 1997

B.A., African-American Studies

- Member of Oberlin Students for Prison Awareness.

BAR ADMISSIONS

Member of New York Bar and District of Columbia Bar.

Admitted to practice before the following federal courts: the Eastern District of New York, the Southern District of New York, the District of Columbia, and the Court of Appeals for the District of Columbia Circuit.

EDUCATION

Georgetown University Law Center

Juris Doctor, cum laude, 2009–2012, Washington, DC

Duke University, Pratt School of Engineering

Master of Engineering Management, 2003–2005, Durham, NC

Duke University, Pratt School of Engineering

B.S.E., 1999–2003, Durham, NC; Major: Biomedical Engineering; Minor: Computer Science

EXPERIENCE

Terris, Pravlik & Millian, LLP

Associate, November 2012–present, Washington DC

Represent individual clients before the District of Columbia Office of Administrative Hearings regarding the provision of Medicaid services. Represent clients in federal civil cases.

Institute for Public Representation

Student Attorney, August–December 2011, Washington, DC

Drafted and filed motions and briefs in civil rights and other public interest litigation; coauthored petitioners' merits brief in a *Elgin v. Dep't of the Treasury*, a Supreme Court case concerned with the scope of the Civil Service Reform Act.

U.S. Department of Justice, Civil Rights Division, Special Litigation Section

Legal Intern, Summer 2011, Washington, DC

Researched issues, developed legal theories, and drafted memoranda to support pending and ongoing litigation related to enforcement of civil rights legislation. Performed preliminary investigation of state and local law enforcement agencies to identify potential violations of federal civil rights law.

U.S. Department of Transportation, Maritime Administration, Office of Chief Counsel

Legal Intern, Summer 2010, Washington, DC

Researched and drafted memoranda on legal issues related to Federal control of the maritime industry. Assisted in the revision of Federal regulations concerning the Maritime Administration's powers under the Defense Production Act. Assisted in preparation of Maritime Administrator's Congressional testimony regarding the Deepwater Horizon incident.

Epic Systems Corporation

EDI Project Manager/Developer, 2005–2009, Madison, WI

Designed, developed, implemented, and supported integration between Epic's EMR and disparate HIT systems. Received multiple "Han Solo" awards (for exceptional individual achievement), as well as "The Force" award (for exceptional achievement as part of a group).

PUBLICATIONS

A SILENCED RIGHT: THE EROSION OF THE FIFTH AMENDMENT'S PROTECTION AGAINST SELF-INCRIMINATION, *American Criminal Law Review*, 49 AM. CRIM. L. REV. 2001 (2012)

COMPUTER CRIMES, *26th Annual Survey of White Collar Crime* (coauthor)

ADMISSIONS

State Bar of Virginia (admitted October 2012)

District of Columbia (admitted August 2013)

EDUCATION

UNIVERSITY OF VIRGINIA SCHOOL OF LAW **Juris Doctor**

Charlottesville, VA
May 2010

- Editorial Board Member, *Virginia Journal of Social Policy & the Law*
- Jessup International Moot Court Semi-Finalist and Third-Place Speaker
- Semester study abroad at the University of Melbourne Law School, Australia

UNIVERSITY OF MINNESOTA **Bachelor of Arts in Psychology, Minor in Political Science, *Summa Cum Laude***

Minneapolis, MN
May 2005

- 3.89 GPA; Psychology Honors Thesis
- National Forensic League Distinction Award recipient

EXPERIENCE

UNITED STATES DISTRICT COURT FOR THE MIDDLE DISTRICT OF FLORIDA **Law Clerk**

Fort Myers, FL
August 2012 – Present

- Research and draft bench memoranda and opinions primarily addressing dispositive motions, manage the civil docket, and assist in the administration of trials for several United States District Court Judges, including the Honorable Roy B. Dalton Jr. and James S. Moody Jr., who are temporarily handling the un-assigned docket in the Middle District of Florida. The docket is expected to be assigned to Magistrate Judge Sheri Polster Chappell, who has asked that I serve as her law clerk upon her confirmation as the United States District Court Judge
- Cases involve state and federal law related to civil rights, contract and securities, and employment and labor matters

TERRIS, PRAVLIK & MILLIAN LLP **Associate**

Washington, DC
March 2011 – July 2012

- Supervised by Bruce J. Terris, former Assistant to the United States Solicitor General
- Lead associate in *D.L. v. District of Columbia* – a successful class action that represented preschool-age children that sought injunctive reforms to the District of Columbia’s special education policies; managed several legal assistants in expedited post-trial discovery of thousands of pages of documents; drafted over a dozen post-trial briefs and dispositive motions including a motion to re-certify a “hybrid” class in response to *Wal-Mart Stores, Inc. v. Dukes*, 131 S. Ct. 2541 (2011); drafted and negotiated a decree with the District of Columbia government related to the individual relief of class members; prepared a \$3.6 million attorneys’ fees application spanning seven years of litigation
- Monitored and enforced a federal court consent decree resulting from the settlement of Clean Water Act litigation
- Represented health care beneficiaries in administrative hearings challenging the denial of healthcare services
- Negotiated the settlement of a contract and bankruptcy dispute concerning the repayment of an expert retainer fee

D.C. OFFICE OF THE ATTORNEY GENERAL, CIVIL LITIGATION DIVISION **Special Assistant Attorney General**

Washington, DC
October 2010 – February 2011

- Represented the District of Columbia in civil actions involving Title VII, ADA, FLSA, and contract claims
- Interviewed witnesses, researched and drafted dispositive motions and replies

BAR ADMISSIONS

- Texas (2012)
- District of Columbia (2012)
- California (2010)

SKILLS & PERSONAL INFORMATION

- Fluent in Persian (Farsi), basic knowledge of Spanish
- Minnesota State Debate Champion, high school and college speech and parliamentary debate award winner, avid traveler, and downhill skier.

Bruce J. Terris

Office:

1121 12th Street, N.W.
Washington, D.C. 20005
(202) 682-2100

Born: Detroit, Michigan

Birthdate: August 3, 1933

Education: A.B. Summa Cum Laude Harvard (1954) Phi Beta Kappa

LL.B. Magna Cum Laude Harvard (1957) Article Editor
Harvard Law Review

Post Graduate Study Georgetown University
Political Science

Honors: Honorary Fellowship and Commencement
Speaker University of Pennsylvania
Law School 1977

Conservation Law Award National Wildlife Federation 1981

Professional Experience:

1957-1958 Attorney, Internal Security Division
Appellate Section, U.S. Department of Justice

1958-1959 Personal Assistant to Solicitor General, J. Lee Rankin, Department
of Justice

1959-1965 Assistant to the Solicitor General,
Department of Justice

Argued 16 Supreme Court cases on behalf of the
government, including Wesberry v. Sanders (the
Congressional redistricting case); Schneider v. Rusk and
Kennedy v. Mendoza-Martinez (the constitutionality of two
federal statutes relating to the expatriation of citizens)
(subsequently argued an additional 4 Supreme Court cases)

Wrote or extensively reviewed approximately 70 Supreme Court

briefs, including Abel v. United States (a Soviet espionage case); Baker v. Carr and the 1964 reapportionment cases; and a large number of civil rights and criminal cases

Prepared Attorney General Kennedy for his only appearance in the Supreme Court

- 1965 Co-Chairman, National Conference on Law and Poverty sponsored by the Attorney General and the Director of the Office of Economic Opportunity – this conference had a major part in starting OEO legal services for the poor.
- 1965-1967 Assistant Director, National Crime Commission – supervised all work on police/community relations and early work on narcotics and dangerous drugs
- 1965 Consultant, Community Relations Service, Department of Justice, on police/community relations
- 1965 Consultant, University Research Corporation – wrote proposals relating to crime and training the poor to be lawyer's aides
- 1967-1968 Assistant to the Vice President for the District of Columbia – worked on youth programs and the District's problems generally – developed a detailed program to coordinate all activities of SBA, EDA, and other government agencies relating to minority business
- 1967-1968 Visiting Professor of Law, Catholic University (teaching two sections of constitutional law)
- 1968 Campaign staff of Senator Robert Kennedy, doing research on urban problems
- 1968-1969 Executive Director, Anacostia Assistance Corporation, a non-profit organization of businessmen and others, to provide financial and technical assistance relating to economic development, housing and education to community groups in a poverty area of Washington, D.C. – established a center for packaging black businesses, started a local development company, worked on beginning a community electronics plant (which never came to fruition), and wrote an elaborate proposal for a special impact grant
- 1969-1970 Co-founder and Senior Attorney, Center for Law and Social policy, a non-profit organization which represented consumers, the poor, and other usually unrepresented persons before federal administrative agencies and in the courts concerning consumer,

environment, health, and other problems and which had law students who came to the Center for five months and received a semester's credit – personally represented the California farm workers union in a suit to prevent Mexican nationals from entering the United States to work in the fields, which was lost, 5-4, in the Supreme Court (Bustos v. Mitchell) – represented physicians at D.C. General Hospital and the District of Columbia chapter of the Medical Committee on Human Rights in legal actions to improve the care at the hospital; represented the American Public Health Association and the National Council of Senior Citizens in a suit which resulted in an order requiring the Federal Drug Administration to speed procedures to get several thousand ineffective drugs off the market; represented Ralph Nader in proceedings before the Federal Trade Commission – ran educational program

1970

Attorney, private practice, Washington, D.C. – became Terris & Sunderland in 1980, Terris, Edgecombe, Hecker & Wayne in 1986, Terris, Pravlik & Wagner in 1990, and Terris, Pravlik & Millian in 1998 – presently has 10 attorneys – principally engaged in public interest law, including environmental and employment cases

Representative cases include:

Sierra Club v. Fri, 412 U.S. 541 (1973), in which the Supreme Court held, by affirming the court of appeals, 4-4, that the Clean Air Act prevented significant deterioration of air quality in clean air areas – this decision resulted in Congressional legislation to protect the air quality of clean air areas

Sierra Club v. Butz, 3 ELR 20071 (N.D. Cal. 1972), in which the court granted, under the National Environmental Policy Act, a preliminary injunction against the development of 50 million acres and ordered the Forest Service to prepare environmental impact statements before allowing development of roadless areas in national forests

West Virginia Division of the Izaak Walton League of America v. Butz, 522 F.2d 945 (4th Cir. 1975), in which the court of appeals declared that the Forest Service practice of clearcutting in national forests violated the Organic Act of 1897 – this decision resulted in Congressional legislation regulating clearcutting

Sierra Club v. Morton, 427 U.S. 390 (1976), in which the Supreme Court held that the National Environmental Policy Act required preparation of a regional environmental impact statement for subregions of the Northern Great Plains but not the entire area

Palmer v. Shultz, 815 F.2d 84 (1987), in which the court of Appeals held that the Department of State had discriminated against female Foreign Service Officers in numerous personnel areas – previously in the same case, the Department of State agreed to hire 75 additional female Foreign Service Officers to settle allegations of discrimination in hiring

Public Interest Research Group v. Powell Duffryn Terminals, Inc., 720 F. Supp 1158 (D.N.J. 1989), affirmed in part, 913 F.2d 64 (3d Cir. 1990) in which the court imposed a penalty of over \$4 million (the largest ever imposed in a citizen suit) and injunctive relief for violations of the Federal Water Pollution Control Act

FOE v. Laidlaw Envtl. Services (TOC), Inc., 528 U.S. 167 (2000), a Clean Water Act citizen suit in which the Supreme Court held that the Fourth Circuit erred in finding the case moot due to availability of only civil penalty relief and not injunctive relief. Supreme Court also held that the citizens had constitutional standing to pursue their claims. Lower court decisions are found at 890 F. Supp. 470 (D.S.C. 1995) and 956 F. Supp. 588 (D.S.C. 1997), and 149 F.3d 303 (4th Cir. 1998).

Publications:

Author of article in November 1968 issue of Annals of the American Academy of Political Science, “The Role of the Police,” reprinted in Violence in the Streets, edited by Shalom Endelman (Quadrangle Books, Chicago, 1969); Livingston Hall, et al., Modern Criminal Procedure (West Publishing Co., 1969, 3d ed.); and The Ambivalent Force: Perspectives on the Police, edited by Abraham Niederhoffer and S. Blumberg (Ginn and Co., N.Y. 1970)

Author of article in February 1968 issue of New Jersey Municipalities, “The Responsibility of City Government: Win the War or Preserve the Peace”

Author of article in Winter 1968 issue of Legal Issue (Catholic University), “Black Versus Blue: The Crisis in Police Community Relations”

Author of chapter on “The Chain-Independent Retail Store” in Practicing Law Institute; The Local Economic Development Corporation: Legal and Financial Guidelines (GPO, 1970)

Speech at the National Institute on New Techniques in Regulating Business: The Ash Council’s Recommendations, April 16-17, 1971, in 23 Administrative Law Review 445 (1971)

Author of Legal Services for the Elderly (National Council on the Aging, 1972)

Speech at the American Bar Association National Institute, Law of the Environment, November 1-2, 1973, "Air Quality Control in the 70s: Environmental Critique," in 7 Natural Resources Lawyer 217 (1974)

Author of article in July-August 1974 issue of Juris Doctor, "Hard Times Ahead for Public Interest Law"

Co-Author of article, the Leasing of Federal Land for Coal Production, Natural Resources Defense Council v. Hughes, 15 Houston Law Review 1175 (1978)

Speech on "Environmentalists' Citizen Suits" in "The Private Assumption of Previously Public Responsibilities: The Expanding Role of Private Institutions in Public Environmental Decisionmaking," Fifteenth Annual Conference on the Environment, American Bar Association, Standing Committee on Environmental Law (1986)

Author of article in 2003 issue of Widener Law Review, "Standing on Weak Ground"

Author of article in 2007 issue of Journal of Supreme Court History, "Attorney General Kennedy versus Solicitor General Cox: The Formulation of the Federal Government's Position in the Reapportionment Cases"

Other Activities

- | | |
|-----------|--|
| 1960 | Co-founder of a credit union in the slums, one of the first organized on a geographic basis |
| 1961-1965 | Co-founder and President of Better Homes, Inc., a non-profit corporation with the purpose of buying and improving housing in slum areas in Washington (the corporation was the model for approximately half a dozen other similar non-profit organizations in Washington, and was the recipient of the first funds in Washington under the Federal Housing Act of 1961 for the rehabilitation of houses for low-income families) |
| 1961-1966 | Co-organizer of the 1500 Block Club, an organization of the people living in two blocks of the slums of Washington (the organization had a small community center, women's and men's |

clubs, and a large tutoring program)

- 1965-1979 Co-founder of the Housing Development Corporation, later chairman of the board – wrote the proposal for the creation of this large, well-financed, non-profit real estate development corporation to provide housing for low-income families throughout the Washington area – the first of its kind in the country, it originally received over \$300,000 a year from the Office of Economic Opportunity – OEO used it as a model elsewhere
- 1965-1966 Member, Coalition of Conscience, a coalition of organizations to promote civil rights in the District of Columbia
- 1968-1972 Chairman and Member, District of Columbia Democratic Central Committee
- 1968-1972 President and Member of the Board, Project Share – this organization raised over \$100,000 in funds for non-profit housing for low and moderate income people
- 1968-1974 Member of the Board, District of Columbia Home Rule Committee
- 1970-1971 Member of the Board, Anacostia Citizens and Merchants, a broadly representative citizens group with the purpose of improving the Anacostia area
- 1974-1977 Member of the Board and Secretary, District of Columbia Development Corporation, a non-profit corporation intended to develop housing for low and moderate income people and support business ownership by minorities
- 1976-1978 Co-chairman, Air Quality Task Force, National Coal Policy Project
- 1976-1981 Member of the Board, Council for Public Interest Law, a national organization encouraging the expansion of public interest law
- 1977-1978 Member, Litigation Committee, Friends of the Earth
- 1978-1980 Member, Litigation Committee, Environmental Defense Fund
- 1979-1980 Member, Advisory Panel on Synthetic Fuels, Committee on Science and Technology of the House of Representatives

MICHELLE WEAVER

1378 McAllister Street, Apt. 6 · San Francisco, CA 94115 · (646) 872-8775 · mgweaver@gmail.com

EDUCATION

Columbia University School of Law, New York, NY

Juris Doctor, May 2006

Honors: Alfred A. Forsyth Prize in Environmental Law; James Kent Scholar, 2004-2005; Harlan Fisk Stone Scholar, 2003-2004 and 2005-2006; Public Service/Student-Funded Fellow, Summer 2004

Activities: Environmental Law Society; Columbia Journal of Environmental Law, Co-Senior Editor

Bowdoin College, Brunswick, ME

Bachelor of Arts in Biology and Environmental Studies, cum laude, May 2003

Honors: Departmental Honors in Environmental Studies; Copeland-Gross Prize in Biology; Academic Award in Environmental Studies

Activities: Committee for a Sustainable Bowdoin

Thesis: *Carbon Credits and Carbon Guilt: Terrestrial Sinks as a Case Study of the United States' Moral Responsibility for Climate Change*

EXPERIENCE

Terris, Pravlik & Millian, LLP

Associate Attorney

Of Counsel

Represented clients in environmental litigation pursuant to the Resource Conservation Recovery Act, the Federal Water Pollution Control Act, and other statutes. Responsible for case development, management, and motions practice. Drafted briefs for trial and appellate courts. Negotiated and drafted settlement agreements. Worked extensively with technical experts to develop cases, ensure proper implementation of remedies, and support remedies with institutional controls such as financial assurances.

Washington, DC

September 2006 to September 2012

September 2012 to Present

Natural Resources Defense Council

Legal Intern

Researched interplay of the National Environmental Policy Act and the Magnuson-Stevens Fishery Conservation and Management Act. Responsibilities included researching legal issues and questions, researching and analyzing the Fishery Management Councils' compliance with NEPA mandates, drafting legal memoranda, providing comments on proposed legislation, and drafting advocacy pieces.

New York, NY

Summer 2005

Environmental Law Clinic, Columbia University School of Law

Student, Teaching Assistant

Defended a non-profit organization agitating about environmental hazards from a building project against a defamation claim and a prima facie tort claim. Responsibilities included legal research and drafting of motions, letters, and other papers, as well as administrative coordination of clinic students on assignments and cases.

New York, NY

Academic Years 2004-2005, 2005-2006

New York Climate Rescue

Legal Intern

Researched and drafted legislation on the reduction of carbon emissions from New York City for submission to the New York City Council. Explained effects of climate change in background paper that included outline and analysis of proposed law. Presented proposal to legislative staff of the City Council Environmental Protection Committee.

New York, NY

Summer 2004

The Maine Land Bond Coalition

Psi Upsilon Public Policy and Government Relations Intern

Assisted conservation groups with the preparatory stages of a land bond campaign by providing daily support to lobbyists. Planned and scheduled strategy meetings and outreach events with legislators and general public. Researched the legal process and requirements to pass a land bond through the Maine State Legislature and wrote summary memorandum.

Brunswick, ME

Summer 2003

BAR MEMBERSHIP

New York and the District of Columbia

Plaintiffs' Exhibit
15
Civ. No. 05-1437 (RCL)

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

DL, <i>et al.</i> , on behalf)	
of themselves and all others)	
similarly situated,)	
)	
Plaintiffs,)	Civil Action No. 05-1437 (RCL)
)	
v.)	
)	
THE DISTRICT OF COLUMBIA,)	
<i>et al.</i> ,)	
)	
Defendants.)	
)	

AFFIDAVIT OF JEFFREY S. GUTMAN

I, Jeffrey S. Gutman, hereby depose and state:

1. I am a Professor of Clinical Law at The George Washington University Law School and direct the Public Justice Advocacy Clinic. The Clinic, which is staffed by second and third year law students under my supervision, represents low income and disabled individuals in litigation and administrative proceedings, who cannot afford legal counsel. As a result, the Clinic does not charge any of its clients attorney’s fees.

2. I offer this affidavit in support of Plaintiffs’ Motion for an Award of Litigation Costs, Including Attorneys’ Fees and Related Expenses, which is being filed contemporaneously with this affidavit in this case. The fees accrued by me and the law students under my supervision with regard to this case are discussed in detail below. They relate to work that occurred up to and including November 16, 2011 (“Period 1”) and work that took place in the period from November 17, 2011, to June 22, 2016 (“Period 2”). I have divided this work between Period 1 and Period 2 because the fees related to Period 1 were fully briefed in 2012.

3. Defendants opposed certain fees originally requested by me in Plaintiffs’ Motion for an Award of Litigation Costs, Including Attorneys’ Fees and Related Expenses, on April 30,

2012 (Doc. 325). I made certain concessions in the Reply Memorandum in Support of Plaintiffs' Motion for an Award of Litigation Costs, Including Attorneys' Fees and Related Expenses, dated October 5, 2012. Doc. 348, pp. 27-29. To avoid confusion or the need for unnecessary work, I am requesting, for Period 1, compensation for the same time for which I previously requested payment, less the concessions that I made in the reply memorandum, and with some additional adjustments that are described below. Therefore, the only difference in the total amount requested by me in the reply brief filed on October 5, 2012, and the total amount requested now by me for Period 1, are those additional adjustments described below and my request that all of my work be compensated at current rates, which are higher than the 2012 rates.¹

4. I graduated with distinction from Stanford University in 1983 and obtained my J.D. *cum laude*, from Harvard Law School in 1986. Following a clerkship with the Honorable Earl B. Gilliam, United States District Judge for the Southern District of California, I served as a Trial Attorney with the Federal Programs Branch, Civil Division, United States Department of Justice until July 1994. Since July 1994, I have been on the faculty at The George Washington University ("GWU") Law School. My resume is attached hereto as Attachment 8.

5. In 2003, an attorney who represented families in special education cases expressed concern to me that, when families prevailed in special education cases and the child began receiving special education services, the child was often too old to receive substantial benefit from the services provided. The attorney opined that, from an educational perspective, special education services are often considerably more effective when provided to a significantly younger child.

¹ I understand that the billing practices for non-working travel time for co-counsel have changed between Period 1 and Period 2. During both periods, I have not billed for non-working travel time.

6. Following this conversation, I began conducting research into the numbers of pre-school age children receiving special education services in the District of Columbia and found that the District ranked lowest of all states. In addition, I researched the applicable federal and local statutes and regulations which governed the provision of special education services to disabled children. I also had conversations about the matter with Margaret Kohn, an attorney specializing in special education law, who had served as co-counsel in another case with my clinic.

7. Believing this “child find” project to be worthy of further research, I assigned several third-year law students, including Matthew Blaschke, Nazar Altun, Lori Ruk, and Chioma Chikwelugo, to this matter during the 2003-2004 academic year. The students reviewed documents released as a result of a previously filed Freedom of Information Act request with the District of Columbia Public Schools (“DCPS”) and the Department of Human Services (“DHS”). In addition, the students continued research on the applicable statutes and regulations and analyzed whether a plaintiff or plaintiffs would have a right to enforce these statutes and regulations directly or through 42 U.S.C. § 1983. In the time sheet attached as Attachment 1 (described further in paragraph 10 below), the students have referred to this as their “Gonzaga” research, after *Gonzaga Univ. v. Doe*, 536 U.S. 273 (2002). As a result of that research, the students began drafting the statutory framework for an eventual complaint.

8. At the same time, the students launched an additional factual investigation to determine what was happening on the “ground.” They contacted special education attorneys in the District to learn more about DCPS “child find” efforts and to determine whether they had represented families and children who were not located or tested for eligibility for special education services while in their pre-school years. They contacted daycare and preschool

facilities throughout the District to learn whether and how they coordinated with DCPS and DHS with regard to children who may require special education services. They located and spoke with community advocates, such as attorneys with the Children's Law Center, University Legal Services, and For the Love of Children, to obtain additional information about the District's child find program and families whose children had not benefited from it. They contacted and reviewed materials provided by the U.S Department of Education, including monitoring reports. Based on their factual and legal research, the students began drafting a federal complaint. In addition to their research, the students met with me weekly to discuss their efforts, progress, and to brainstorm ideas for further work.

9. During the course of the students' work, I instructed them to record their time and tasks contemporaneously in a software management program, called "Needles" that the Clinic used at that time. The law school no longer uses the "Needles" program. In preparation for this affidavit, I asked the assistant in the clinical program with primary responsibility for our computer system to work with our Law School's information technology staff to try to recover data from the archived "Needles" information.

10. That effort succeeded in part. The assistant was able to recover the entries made by my students Matthew Blaschke and Nazar Altun during the 2003-2004 academic year. Those entries are reflected in Attachment 1. Attachment 1 demonstrates that Mr. Altun and Mr. Blaschke spent 457.75 hours on this matter during the 2003-2004 academic year.² Given the pedagogical purpose of the clinic and inherent inefficiencies associated with law student work, I

² The document that is attached hereto as Attachment 1 was also previously filed with plaintiffs' 2012 fee application. A time slip for Cunningham for 0.75 hours of work on April 19, 2004, was incidentally included in that document (Attachment 1, p. 4). I am deducting the 0.75 hours of work from the 458.5 hours of work that are identified in Attachment 1 and for which fees were previously requested.

believe that it is appropriate, as a matter of billing judgment, to seek one-half of the time the students devoted to this case. I therefore request fees for 228.875³ hours of student time during the 2003-2004 academic year.

11. The assistant was not able to recover entries that students Lori Ruk, Chioma Chikwelugo, or I made in the “Needles” system. As a result, I have not requested recovery of the scores of hours that Ms. Ruk or Ms. Chikwelugo devoted to this matter or the many hours I spent with students during that school year developing what became the *DL v. District of Columbia* litigation.

12. During the 2004-2005 academic year, my Clinic continued its work on the “child find” project. I assigned several third-year law students to it, including Shontell Powell, Dena Spilker, and Alessandro Terenzoni. During that year, the students continued their factual and legal research. They continued to contact local practitioners and organizations in an effort to identify appropriate organizational or individual plaintiffs. They spoke with groups and families to determine whether they might be appropriate plaintiffs. They reviewed the fairly limited number of class action cases challenging failures to comply with “child find” requirements filed elsewhere, particularly the case filed in Milwaukee. They attempted to obtain demographic and other related data from other states and cities with characteristics similar to those of Washington, D.C. They continued their efforts to draft the complaint and a motion for class certification. They also prepared information for a meeting we had scheduled to discuss the potential litigation with Dr. Ray Bryant, then the head of special education for DCPS.

13. Throughout the 2004-2005 school year, I worked closely with the students and performed my own research, including consulting with Dr. Maxine Freund at GWU and Dr. Carl

³ Where I have divided fees in half for this purpose and the result is a number with three digits after the decimal, I have calculated my fees based on that number rather than rounding it.

Dunst, who became plaintiffs' expert witness. In addition, I worked closely with Ms. Kohn and the law firm of Terris, Pravlik & Millian as we decided on our strategy and prepared for filing the complaint in this case.

14. Again, I instructed the students working on this case during the 2004-05 academic year to record their time and tasks contemporaneously in our "Needles" program. I asked our assistant to search the archived data for those entries, as well as mine. Her efforts were unsuccessful. As a result, I am not requesting recovery of the hundreds of hours of time my students and I devoted to preparing this case for litigation in the 2004-2005 academic year.

15. Once this lawsuit was filed in July 2005, the law firm of Terris, Pravlik & Millian assumed primary responsibility for the litigation and I assumed an advisory role, initially assisting the drafting and editing of briefs, and, later, providing strategic advice during the course of litigation.

16. During the 2005-2006 academic year, I was on sabbatical and resided abroad. However, I remained actively engaged in the drafting and editing of documents in this case. Upon my return to the United States, I continued to do so, typically without students assigned to the case. I recorded the time I spent and the nature of my work contemporaneously in the Clinic's new case management software program called "Amicus." The entries in "Amicus" that our assistant was able to recover from the "Amicus" archive are attached as Attachment 2. Attachment 2 reflects that I devoted 72.5 hours of time to this case from August 2005 to May 2009. Based on concerns expressed in Defendants' Opposition to Plaintiffs' Motion for an Award of Litigation Costs, Including Attorneys' Fees and Related Expenses, dated September 4, 2012 (Doc. 343, p. 32), I agreed on reply (Doc. 348, pp. 27-29; Doc. 348-11, para. 6) to deduct 1 hour that I billed on September 15, 2005, for "Prepare settlement conference; draft discovery;

review prior FOIA requests.” *See* Attachment 2, p. 1. I have also deducted 3.5 hours of time for entries on June 14, 2006, June 30, 2016, August 2, 2006, and August 12, 2006. *See* Attachment 2, p. 2.

17. On occasion, this case concerned a discrete legal or factual issue that was appropriate for clinical student assistance. In September 2006, I assigned a law student, Leigh Notestein, to research a question regarding the discovery of facts in databases and access to those databases. The “Amicus” entries our assistant recovered in “Amicus” reflecting her work are attached as Attachment 3. She devoted 13 hours and 15 minutes to this project. Again, because some time is devoted to pedagogy and because of inherent inefficiencies in student effort, I request one half of this time, or 6.625 hours.

18. Similarly, in the fall of the 2007-2008 academic year, I assigned a law student, Kristi Tamura, to work on this case. At that point in the litigation, we had received information from the defendants regarding the numbers and kinds of adverse birth incidents experienced by children in the District. In an effort to determine how this information might be used in this litigation, Ms. Tamura researched the demographics of children entering or leaving the District after birth and studies correlating adverse birth incidents and the future need for special education services.

19. Ms. Tamura contacted and spoke to several demographers for assistance. She also reviewed the academic literature and contacted several organizations with special education expertise to determine any correlations between various types of adverse birth incidents and the need for special education services. She prepared a memorandum with her findings.

20. In addition, Ms. Tamura was assigned to review all of the U.S. Department of Education, Office of Special Education Program, documents with respect to grants to the District

and the monitoring of its special education program. In a lengthy memorandum, Ms. Tamura summarized and analyzed these documents for class counsel.

21. Ms. Tamura was instructed to record her hours and tasks contemporaneously in our “Amicus” software system. Our assistant was able to recover her entries in the “Amicus” archive. Those entries are reflected in Attachment 4 and show that she devoted 119.5 hours to these efforts. Again, for the reasons explained above, I seek one half of that time, or 59.75 hours.

22. Starting in the 2009-2010 academic year, the clinic switched to another case management software program called “Legal Files.” I recorded time that I devoted to this case contemporaneously in Legal Files. Attachment 5 reflects the time I devoted to the case and the tasks I performed. In particular, I reviewed and commented on the expert reports, prepared for and attended a number of mediation sessions, and attended the first day of the trial. These tasks involved 27 hours and 20 minutes of work.

23. In addition, in light of developments in this case, there was a need to obtain press reportings on threats to cut special education funding in the District. I assigned a third-year law student, David Burns, to perform an on-line search of such articles. The results were circulated to class counsel. As shown in Attachment 6, Mr. Burns devoted 3 hours to his task. Again, because some time is devoted to pedagogy and because of inherent inefficiencies in student effort, I request that one half of this time be recovered in the exercise of billing judgment.⁴

24. I am not currently requesting compensation for fees that were awarded by the Court’s Memorandum Opinion, dated March 11, 2009 (Doc. 139), related to motions to compel, or that were the subject of that motion.

⁴ In the prior fees briefing, I inadvertently asked for payment for 100 percent for this time. I have reduced it here to 50 percent, or 1.5 hours.

25. The total number of hours I spent in Period 1, for which I seek compensation is 95.333 hours. *See* para. 28 below. I am seeking compensation at the same hourly rates as are requested for the attorneys at Terris, Pravlik, & Millian, LLP. *See* Affidavit of Bruce J. Terris, Plaintiffs' Exhibit 1, para. 82. I have been at the hourly rate for attorneys with 20 or more years of experience for all of the time for which I am seeking compensation in this case. That is currently \$826 per hour (*ibid.*) and my fees total \$78,745.06.

26. The total number of hours my law students spent through November 16, 2011, for which I seek compensation is 296.75 hours. *See* para. 28 below. For the students I assigned to work on this case, I seek compensation at the current hourly rate for paralegals as requested for the paralegals at Terris, Pravlik, and Millian, LLP, or \$187 per hour, for a total of \$55,492.25.

27. During Period 2, I recorded time I devoted to this case contemporaneously in Legal Files. Attachment 7 describes my tasks and time billed for Period 2. That time relates to review and comments regarding the individual relief proposal, which was being negotiated, attendance at a meeting related thereto, review and comments on defendants' proposed changes to the injunction, and reviewing and commenting on plaintiffs' renewed motion for class certification. These tasks involved 7.25 hours of work. I request that I also be compensated for this time at the hourly rate of \$826, for a total of \$5,988.50 for Period 2.

28. I subsequently withdrew as counsel on this case. Below is a table summarizing the fees for which I am requesting compensation, as described above. I am not seeking personal compensation for the work conducted either by myself or my former students. All fees awarded will be directed to the Jacob Burns Community Legal Clinics of The George Washington University Law School.

Attachment	Date	Work	Rate	Time	Total
1	2003-2004 Academic Year	M. Blaschke and N. Altun – “Needles”	\$187	228.875 hours	\$42,799.63
2	August 2005, through May 2009	J. Gutman – “Amicus”	\$826	68.000 hours	\$56,168.00
3	September 2006	L. Notestein – “Amicus”	\$187	6.625 hours ⁵	\$1,238.88
4	Fall 2007	K. Tamura – “Amicus”	\$187	59.750 hours	\$11,173.25
5	2009-2010 Academic Year to August 2011	J. Gutman – “Legal Files”	\$826	27.333 hours	\$22,577.06
6	2009-2010 Academic Year to August 2011	D. Burns – “Legal Files”	\$187	1.500 hours	\$280.50
7	December 2011 through May 2013	J. Gutman – “Legal Files”	\$826	7.250 hours	\$5,988.50
TOTAL				399.333 hours	\$140,225.82

29. Pursuant to 28 U.S.C. 1746, I declare under the penalty of perjury that the foregoing is true. Signed on September 26, 2016, in Washington, DC.

/s/ Jeffrey S. Gutman
 JEFFREY S. GUTMAN

⁵ The number of hours sought regarding Attachments 3 through 5 are slightly different than those sought in my 2012 submission due to the correction of minor rounding errors, which were made to increase accuracy.

Jeffrey Stuart Gutman

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gutmanbrustin@verizon.net

LEGAL EXPERIENCE

The George Washington University Law School, Washington, D.C.

Professor of Clinical Law, July 1, 2000 to present
Associate Professor of Clinical Law, July, 1996 to June 30, 2000
Visiting Associate Professor of Law, July, 1994 to June, 1996

Associate Dean for Academic Affairs, January 1, 2003 to July 31, 2008
Assistant Dean for Academic Affairs, May, 2000 to December, 2002
Acting Assistant Dean of Students, November, 1998 to April, 1999

Course load includes teaching Civil Procedure and serving as Director, Public Justice Advocacy Clinic.

Clinic caseload has included trial-level and appellate litigation in federal court, District of Columbia courts and before District of Columbia administrative courts in the areas of constitutional law, civil rights, freedom of information law, disability discrimination, administrative law, wage and hour law, unemployment compensation, public benefits, probate and guardianship.

Administrative responsibilities included curriculum planning and development, recruitment, mentoring and supporting 200+ upper-level adjunct faculty, oversight of Outside Placement Program, chairing Curriculum, Journal Advisory and Enrichment Program Series Committees and completing special projects related to the academic program of the law school.

U.S. Department of Justice, Civil Division, Federal Programs Branch

November, 1987 - June, 1994
Trial Attorney

Litigation of federal constitutional and administrative law cases. Personal responsibility for developing case strategy, drafting memoranda of law, conducting pre-trial discovery, delivering oral argument and examining witnesses in federal district courts.

Awards

Department of Justice Special Achievement Award (1993, 1991, 1990, 1988)
Department of Justice Meritorious Award (1992, 1989)

The Hon. Earl B. Gilliam, U.S. District Judge for the Southern District of California
San Diego, California August, 1986 to August, 1987
Judicial Law Clerk

Drafted opinions, orders and bench memoranda recommending disposition of pending civil and criminal motions for federal district judge.

EDUCATION

Harvard Law School, Class of 1986
J.D., *cum laude*

Notes Editor, Harvard Civil Rights - Civil Liberties Law Review
Associate Editor, Harvard International Law Journal

Stanford University, Class of 1983
B.A. with distinction in Political Science and Economics
Phi Beta Kappa

Director, Stanford Committee on Political Education
Teaching Assistant, Seminar on Presidential Decision-making

PROFESSIONAL AND PUBLIC SERVICE

Member, Board of Governors, District of Columbia Bar, 2012-2014

Treasurer, District of Columbia Bar, 2011-2012

Mediator, District of Columbia Superior Court, Multi-Door Dispute Resolution Division, 2012-present

Member, Board of the Sacred Heart Church Dinner Program, 2012-2014

Member, Board of the Washington Council of Lawyers, 2010-2012

Member, Board of the Center for Dispute Settlement, 2010-present

Advisor to Department of Justice Transition Team, 2008.

Trustee, District of Columbia Bar Clients' Security Fund, appointed by D.C. Court of Appeals, April, 2007 – June, 2011; Chair, June, 2010 – June, 2011.

Complaint Examiner, District of Columbia Office of Police Complaints, 2007 – 2010.

Editor-in-Chief, Federal Practice Manual for Legal Aid Attorneys (2nd edition, 2004); (3rd edition, 2006); (4th edition, 2011); (5th edition, ongoing) available at www.federalpracticemanual.org.

Co-Chair, Steering Committee, District of Columbia Bar Administrative Law and Agency Practice Section, 1999-2000.

Member, Steering Committee, District of Columbia Bar Administrative Law and Agency Practice Section, 1997-1999, 2000-2003.

Editor, Administrative Procedure chapter, The District of Columbia Practice Manual (6th, 7th, 8th and 12th eds.).

Chairman, Board of Directors, D.C. Law Students in Court Program, 1998-99.

Member, Board of Directors, D.C. Law Students in Court Program, 1996-98, 1999-2001.

Member, Board of Trustees, Temple Sinai, 1999-2001.

Member, Board of Directors, Sinai Assisted Housing Foundation, 1995-99.

Counsel in private federal litigation; guest speaking at attorney training programs, testimony before D.C. City Council and consulting.

BAR ADMISSIONS

California, 1986 (inactive)

District of Columbia, 1989

PERSONAL

Co-counsel with New York firm of Neufeld, Scheck & Brustin on cases arising from wrongful convictions in the District of Columbia:

Gates v. District of Columbia, Civ. No. 11-0040 (RWR) (D.D.C.)
See 66 F.Supp.3d 1 (D.D.C. 2014)
Odom v. District of Columbia, Civ. No. 2013 CA 3239 (D.C. Sup. Ct.)
See 2015 D.C. Super LEXIS 2 (D.C. Sup. Ct., Feb. 27, 2015)
Tribble v. District of Columbia, Civ. No. 2013 CA 3237 (D.C. Sup. Ct.)
See 2016 D.C. Super. LEXIS 4 (D.C. Sup. Ct., Feb. 26, 2016)
Tribble v. Greene, Civ. No. 15-0710 (GK) (D.D.C.)
Wright v. Greene, Civ. No. 15-1067(GK) (D.D.C.)

Resided in Mosman, New South Wales, Australia from January 1, 2015 to June 30, 2015 and taught at Australian Catholic University, Thomas More School of Law in Melbourne and Sydney, Australia while on sabbatical leave.

Resided in Pozuelo de Alarcon, Madrid, Spain from August, 2005-July, 2006 while on sabbatical leave. Proficient in Spanish.

Nominated by D.C. Judicial Nomination Commission as one of three nominees to serve as an Associate Judge, District of Columbia Superior Court, July, 2003 and May, 2009.

Married to Stacy L. Brustin, Professor of Law, Catholic University of America, Columbus School of Law.

Two children: Benjamin, born January 12, 1996, and Julia, born June 15, 1998.

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

**Plaintiffs' Exhibit
 16
 Civ. No. 05-1437 (RCL)**

DL, <i>et al.</i> , on behalf)	
of themselves and all others)	
similarly situated,)	
)	
Plaintiffs,)	Civil Action No. 05-1437 (RCL)
)	
v.)	
)	
THE DISTRICT OF COLUMBIA,)	
<i>et al.</i> ,)	
)	
Defendants.)	
)	

AFFIDAVIT OF MARGARET A. KOHN

I, Margaret A. Kohn, do hereby affirm and state:

1. I am in solo practice with offices located at 619 Pennsylvania Ave SE, 2nd Floor, Washington, DC 20003. I am admitted to practice law in the District of Columbia, Maryland and New York. I am a member of the Bar of the U.S. District Courts for the District of Columbia and Maryland, the U.S. Court of Appeals for the District of Columbia, among others, and the U.S. Supreme Court. I have practiced law since 1973 after receiving my JD from Columbia University Law School in 1972.

2. I have prepared this affidavit to describe my legal experience and expertise in special education law and to summarize the work that I have performed as co-counsel in the above-captioned action. This affidavit is offered in support of Plaintiffs' Motion for an Award of Litigation Costs, Including Attorneys Fees and Related Expenses, filed contemporaneously. A copy of my resume is attached as Attachment 7.

3. After obtaining my JD degree, I was a Fellow at the Center for Law and Social Policy in Washington, DC, followed by employment at the Legal Services Bureau of the Correctional

Association of New York, where I provided civil legal services to inmates of the Department of Corrections for the City of New York. I returned to the Center for Law and Social Policy in 1975, where I became a lawyer in the Women's Rights Project of the Center until that project became the independent National Women's Law Center. When I left the National Women's Law Center in 1985, I was a managing attorney. Between mid-1985 and June 1988, I worked as a consultant, obtained teaching credentials from the University of the District of Columbia, and was a District of Columbia Public Schools ("DCPS") elementary school teacher for SY 1987-88.

4. Since June 1988, I have practiced law full time and the primary focus of my practice has been special education. Initially, I was employed as an associate by Bogin & Eig for approximately two and a half years, then I was in solo practice for three years before forming the partnership of Kohn & Einstein in November 1993. The partnership dissolved in 2001 when my law partner became employed at the U.S. Department of Justice, and I returned to solo practice. I have represented parents and guardians of children with disabilities in hundreds of administrative due process hearings in the District of Columbia and Maryland. From time to time, these cases have been appealed to the U.S. District Court for the District of Columbia and the U.S. Court of Appeals for the D.C. Circuit. I have also been appointed by Superior Court judges to be the educational guardian or lawyer for students in the Abuse and Neglect system in three cases with very challenging circumstances.

5. During my employment at Bogin & Eig, I was co-counsel on a number of published decisions, including, but not limited to, *Cox v. Jenkins*, 878 F.2d 414 (D.C. Cir. 1989), *Knight v. District of Columbia*, 877 F.2d 1052 (D.C. Cir. 1989), *Spiegler v. District of Columbia*, 966 F.2d 1527 (D.C. Cir. 1989), and *Kerkam v. McKenzie*, 862 F.2d 884 (D.C. Cir. 1989) and 931 F.2d 84 (D.C. Cir 1991).

6. On several occasions, I have served as counsel for a class of plaintiffs in civil rights cases. While working at the National Women's Law Center, I was co-counsel for the plaintiff class in *Haffer v. Temple University*, E.D. Pa., Civ. No. 80-1362, which consisted of female student athletes who brought a claim to enforce Title IX against Temple University. From 2000-2004, when the post-settlement monitoring of compliance concluded, I was co-counsel for the plaintiff class of students with mobility impairments attending school in DCPS buildings in *LaKendra Nelson, by her Mother and next friend, Wanda Clegg, v. District of Columbia*, D.D.C., Civ. No. 00-2930 (GK). That lawsuit was filed to enforce Section 504 of the Rehabilitation Act and the Americans with Disabilities Act with regard to emergency evacuations from public schools throughout the District.

7. In 1999-2000, I was counsel for a group of 31 District of Columbia children with disabilities, their parents, and nine of the attorneys who had represented them with regard to special education claims against DCPS in *Blackman v. District of Columbia*, D.D.C., Civ. No. 97-2402 (PLF), which was consolidated with *Jones v District of Columbia*, D.D.C., Civil No. 97-1629 (PLF) ("*Blackman Jones*"). Liability was determined in both cases in favor of the plaintiff classes in 1998. In 1999, the parties entered into a joint settlement agreement regarding remedies. At the fairness hearing, we opposed the settlement agreement as grossly inadequate to address the needs of the plaintiff classes. The court refused to approve the settlement agreement and the parties returned to the drawing board. A second settlement was produced, and again, in 2000, with my representation, the parents of children with disabilities and their lawyers opposed the agreement as inadequate on multiple grounds. The court also declined to approve the second version of the settlement agreement. Ultimately in 2003, through mediation, the parties crafted a consent decree that was responsive to many of the concerns that we had raised.

8. In my practice I represent both parents/guardians who are financially capable of paying an hourly fee for my services and those who lack the resources to pay more than a token of the full cost. In circumstances in which my clients lack the financial resources to pay for the legal services I provide, I represent them for a small token amount or with a monthly payment consistent with their financial means, either until the full amount is paid, or, as is more frequently the case, to an artificial maximum commensurate with the resources of the family, but well below the full cost of the services. My hourly rate for individual cases was \$300.00 per hour for several years through 2012. It gradually increased, and as of school year 2015-2016, it became \$400.00 per hour, and has remained there for individual cases. Starting in approximately 2013, I have charged at half my hourly rate for travel time to and from meetings, hearings, court appearances, and out of the office meetings with or on behalf of clients. I do not have an established rate for complex federal litigation.

9. I charge my clients for out-of-pocket expenses such as for copying (15 cents unless it is a large job done outside the office, in which case it is cheaper), postage, messenger, cab fare, and parking fees. Each of the categories of expenses that I have billed for this case would normally be billed to my fee-paying clients and would have been billed to the plaintiffs in *DL* if they had been paying my fees.

10. In those IDEA cases in which a due process hearing is conducted and/or a settlement agreement is negotiated short of a full hearing, and my client is the prevailing party, I seek reimbursement from the District for the full cost of the representation in terms of the hours of work and the out-of-pocket expenses pursuant to the fee-shifting provision of the IDEA. Likewise, in IDEA cases which are appealed, or in IDEA cases in which I have filed an independent action to seek

attorneys' fees and costs after the parents have been determined to be the prevailing parties, I seek attorney's fees and costs from the District pursuant to the fee-shifting provision of the IDEA.

11. I maintain records of my time contemporaneously on a computer program, TimeSlips. I record my time in six minute intervals, or tenths of an hour. With regard to this case, there were many occasions on which I did not record the time that I devoted to work on this matter which should have been recorded. This was generally because I was busy and therefore did not record my time.

12. I have not been paid by any of the named plaintiffs for my services or expenses in this litigation. My work has been performed with the expectation that I would be compensated by the District if plaintiffs were determined to be the prevailing parties.

13. My time and expenses are broken into two periods: Period 1 and Period 2. Period 1 includes all of the time and expenses that I billed through November 16, 2011. Period 2 includes all of the time and expenses that I billed from November 17, 2011, through June 22, 2016.

14. In 2012, after this Court's first decision, we submitted an application for fees and expenses, which covered Period 1. I previously signed an affidavit similar to this one in support of that request. I have made additional reductions to my Period 1 time since then, as described below.

FEES AND EXPENSES FOR PERIOD 1

15. From the time that ideas for this case were first discussed in 2003, my knowledge of the special education and child find operations, policies, and practices, and key personnel at relevant District agencies, have enabled me to provide essential contributions to the team of plaintiffs' class counsel. Over the course of this case, I have been involved in, *inter alia*, the framing of the lawsuit, the factual development of the case, discovery, editing of briefs, settlement negotiations, and

mediations. I also served as the primary contact with the named plaintiffs, all of whom I represented in their individual claims under the IDEA.¹

16. Between 2003 and 2005, I worked on assessing and formulating the case with co-counsel. On May 26, 2005, co-counsel and I met with DCPS attorneys from its Office of General Counsel and Ray Bryant, then Director of Special Education for DCPS, at which time we notified DCPS that we had concluded that there were serious problems with the District's Child Find program for children ages three to five, and requested documentation from DCPS that would prove us wrong. Mr. Bryant assured us that, despite many problems in Special Education at DCPS, Child Find at DCPS was in good working order.

17. As the case progressed, I received and responded to queries from parents of children who were members of the class, and from attorneys who represented children who were members of the class, about the lawsuit and how the remedies sought might benefit class members. As the District started to make changes to its Child Find program for 3-5 year olds, I also sought information from parents and lawyers about the experiences of their clients in securing evaluations and special education services for 3-5 year olds with disabilities, to better inform class counsel on how changes in the Child Find program impacted members of the class. To the extent possible, given the limited availability of redacted Hearing Officer Determinations in the public domain until 2010, I reviewed Hearing Officer Decisions ("HODs") that addressed the needs of children ages 3-5 to inform

¹ I am seeking attorney's fees for services rendered to the named plaintiffs only in their capacity as class representatives. While I continued to provide legal services to five of the children who are named as plaintiffs in this action, and their parents, after the filing of this case, I recorded that work separately. None of those fees or the related expenses are requested here.

plaintiffs' counsel of the nature of the problems with Child Find for this population that reached the administrative complaint and hearing level.²

18. I was actively involved in the discovery process by inspecting documents offered for review at the Attorney General's office, reviewing documents provided by the District, reviewing the named plaintiffs' files for responsiveness to defendants' discovery requests, collecting documents for supplemental production, and identifying documents for which privileges were claimed (I retained the services of a law graduate to create a privilege log). I was involved in preparing for the depositions of Zondra Johnson, Joan Christopher, and Barbara Kamara, and analyzing the information obtained through depositions of several other DCPS administrators. Whenever my schedule allowed, I attended the depositions because I had relevant knowledge and was helpful when responses were unexpected and additional questioning would be useful. I participated in the site visit for plaintiffs' counsel to the C.A.R.E. Center when it was located at Payne Elementary School in 2009, to assist co-counsel in acquiring a complete understanding of the limitations of that site for the evaluation process for young children.

19. Since this action involved significant issues with the data maintained by DCPS, I monitored the *Blackman Jones* class action litigation because it, too, addressed DCPS data relating to children going through the eligibility and evaluation process for special education. Information provided during the periodic status conferences at which DCPS and OSSE senior staff testified and the court monitors reported proved useful to class counsel in *DL* during settlement negotiations and

² Although these HODs were posted in redacted form at the Office of the State Superintendent of Education ("OSSE") Office of Dispute Resolution website starting in 2010, other than clustering the decisions by the month and year in which the HOD issued, the decisions are not catalogued in any other way by OSSE or any publication, so it was necessary to download and open each HOD to determine whether the topic addressed was pertinent.

discovery efforts. The District previously challenged my time entries for November 5, 2007, and February 4, 2009, relating to my attendance at two *Blackman Jones* status conferences. Defendants' Opposition to Plaintiffs' Motion for an Award of Litigation Costs Including Attorneys' Fees and Related Expenses, ECF No. 343 ("Def. Opp. Br."), pp. 33-34. This work was for *DL* and was not performed on behalf of any clients that I had represented in the *Blackman Jones* case.

20. I devoted time to plaintiffs' search for an expert on Child Find and to interviewing potential candidates for that assignment. I also conducted research into the connections between DCPS and George Washington University's School of Education and Human Development ("GSEHD"), where the District's expert, Dr. Maxine Freund, is employed. Defendants previously challenged an entry from July 10, 2009, which states: "revise and issue to letter to DCPS for records about \$ for students at GWU School of Ed and Human Dev." Defs. Opp. Br., p. 34. Dr. Freund is Associate Dean for Research and External Relations at the GSEHD. This entry reflects research that I was conducting to explore ties between DCPS and GSEHD that could be potentially used to probe the disinterestedness and therefore credibility of Dr. Freund's testimony.

21. With regard to trial preparation, I conducted outreach efforts to locate the parents of then current 3-5-year-old members of the class with recent problems with Early Stages and assessed their ability and willingness to provide testimony at the request of plaintiffs' counsel at trial. This required that I meet with several parents, speak with attorneys who represented them in their individual IDEA claims, and review the records of their contacts with the Early Intervention Program (Part C) and Early Stages (Part B). I was one of the attorneys who worked closely with the witness, Ruth Anderson Wilcox, the parent of DW, to help her prepare her written testimony and to prepare for her

cross-examination at trial. I attended both days of the trial to support Ms. Wilcox and to participate in strategy discussions.

22. After trial, I sought admissible evidence that Dr. Beers had been promoted out of the position of Director of Early Stages for the post-trial filings, provided input on the proposed findings of fact, and researched OSSE policy on referrals. I participated in discussions regarding how plaintiffs would respond to the changes in class action law resulting from the Supreme Court's decision in *Wal-Mart Stores, Inc. v. Dukes*, 131 S. Ct. 2541(2011), and communicated with named plaintiffs about recent developments in the lawsuit.

23. My time records for Period 1 are attached as Attachment 1.³ Attachment 1 contains the same time entries and information included with my 2012 affidavit regarding fees and expenses (ECF No. 325-19), with some additional hand-written notations.⁴ I had included some hand-written notations with the initial filing identifying some slips for which I was not requesting compensation. I have now made additional hand-written notations regarding slips for which I had made reductions on reply regarding the 2012 fee application (*see* ECF Nos. 348, 348-12, 348-17). I continue to make all of those reductions here. Finally, I have made additional hand-written notations regarding additional reductions that I am making with this request. To avoid confusion, I am submitting Attachment 3, which catalogues all of the reductions, which are described here, and for which there are hand-written notations:

³ Attachment 8 provides the definitions of abbreviations and acronyms used in my other attachments, except for the initials used to identify parents who called in response to the FERPA notice sent by the District (*see* para. 31 below) and all minors, whose names were redacted to protect their privacy.

⁴ In addition, the formatting is different; there are fewer slips per page leading to more pages.

a. **Original deductions.** Time slips for 7.3 hours of work, totaling \$6,029.80, which are marked as “Omitted ” and were deducted in the initial 2012 fees request.

b. **Retainer time.** Time slips for 3.58 hours of work, totaling \$2,957.08, which are marked as “Retainer.” I deducted the time record entirely if the work described in the record is substantially related to retainers. If only a portion of the work is for retainers, I deducted 20 percent.⁵ Time slips constituting 0.68 hours of Retainer time were deducted with plaintiffs’ 2012 reply brief and time slips constituting 2.90 hours of Retainer time are being deducted now.

c. **Motion to Compel.** Time slips for 2.8 hours of work, totaling \$2,312.80, that are marked as “MTC” for motion to compel. Time slips constituting 0.7 hours of MTC time were deducted with plaintiffs’ 2012 reply brief and five time slips, constituting 2.1 hours of MTC time, are being deducted now.

d. **Press.** Time slips for 2.2 hours of work, totaling \$1,817.20, that are marked as “Press” and were deducted with plaintiffs’ reply.

e. **Travel Time.** Time slips for 5.45 hours of non-working travel time, totaling \$4,501.70 that are marked as “Travel.” Where a slip included time for travel and other matters, and I could segregate the travel time, I deleted 100 percent of the travel time and left the remaining time.⁶

⁵ Since these are reductions, and to limit the volume of this application, I have not addressed herein the basis for these and similar reductions.

⁶ For simplicity, I made a 100 percent reduction for all of the travel time specifically identified in the timeslips even though my current practice is to charge at half my hourly rate (50 percent reduction) for such time. *See* para. 8 above.

24. In summary, in my 2012 application, the corresponding reply, and here, I have reduced my Period 1 time by 21.33 hours, totaling \$17,618.58. *See* Attachments 1, 3. I am seeking reimbursement for the remaining 343.44 hours for Period 1.

25. I seek reimbursement at the same hourly rates as are requested for the Terris, Pravlik & Millian (“TPM”) attorneys on this case. *See* Affidavit of Bruce J Terris, Plaintiffs’ Exhibit 1, para. 82. I had been practicing law for over 20 years when I first began recording time for this matter in October, 2003. I have now been practicing for approximately 40 years. Therefore, I seek reimbursement at the current hourly rate for attorneys with 20 or more years of experience, or \$826 per hour (Pl. Ex. 1, para. 82), for a total of \$283,681.44.

26. My expense records for Period 1 are attached as Attachment 2. Attachment 2 contains the same information that was included with my 2012 affidavit regarding expenses. The hand-written notations relate to expenses for which I am not, in my billing judgment, seeking compensation. To avoid confusion, Attachment 3 (p. 4) catalogues these expense reductions. After these reductions, I seek reimbursement of \$1,540.00 for the following expenses:

a. **Local Transportation.** \$81.80 for transportation to and from meetings with co-counsel, clients, class members, discovery activities (*e.g.* inspection of documents, inspection of C.A.R.E. Center located at Payne Elementary School), settlement negotiations, mediation sessions, trial, and *Blackman Jones* monitoring. These expenses were primarily metro fares, five cab fares, and one \$8.00 parking fee. No charge was recorded for any trips made in my personal vehicle. Three reductions, totaling \$19.00, brought the total down to \$81.80.

b. **Postage.** \$104.23 for postage used to communicate with the named plaintiffs, class members and their representatives, and co-counsel. Two reductions, totaling \$1.48, brought the total down to \$104.23.

c. **Messenger Service.** \$28.29 for four messenger trips between offices of co-counsel to convey client records, discovery material and other documentation related to the litigation. Defendants previously objected to my use of messenger services to deliver documents on five separate occasions over a six-year period. Def. Opp. Br., p. 35. The use of messenger services was justified and cost-effective. The documents that I collected on behalf of the individual plaintiffs, who had been my clients, and in most instances, continued to be my clients for their individual special education issues which were on-going after the student turned six, contained private, confidential information that I did not want to risk sending through the mail. In addition, the documents that I shared with co-counsel typically constituted entire boxes of material. It would have been prohibitively time-consuming and expensive to scan them to send them electronically and more expensive to send them in the mail. Thus it was both cheaper and more protective of my clients' privacy to utilize a messenger service. The fifth charge for messenger service was for delivery of documents to a member of the press, and that charge of \$9.54 has been omitted.

d. **Photocopies.** \$589.68 for photocopies at the rate of 15 cents per page when copies were made in my office and at between 6 and 7 cents per page when copies were made at Green Press, outside the office. Green Press was used only for exceptionally large copying jobs that could not be accomplished in a timely fashion in-house. Copies were reduced by \$34.05 to bring the total down to \$589.68.

e. **Miscellaneous.** \$736.00 for contract services of a law graduate, Karen Minor, in 2008, for 36.8 hours of work preparing privilege logs related to client files of named plaintiffs at the rate of \$20.00 per hour.

FEES AND EXPENSES FOR PERIOD 2

27. I continued as co-counsel after the Court's decision in November 2011. Following this Court's November 16, 2011 Order (Doc. 295), which stated that "the parties shall meet and confer, and propose a procedure for addressing class members' claims for individual relief," the parties engaged in extensive negotiations and drafted documents regarding the individual relief procedure. *See, e.g.*, Proposed Decree for Individual Relief, dated January 31, 2012, ECF No. 310; Plaintiffs' Memorandum of Points and Authorities in Support of the Disputed Provisions of the Proposed Decree Proposed by Plaintiffs and in Opposition to the Disputed Provisions Proposed by Defendants, dated February 10, 2012, ECF No. 313. I worked on plaintiffs' first draft of the individual relief plan and was a contributing participant in all of the meetings held with the District. I brought substantial value to this process given my special education experience, my familiarity with the compensatory education that was offered to individual class members in the *Blackman Jones* class action, and the problems that had to be solved for that process. I was the member of the team who communicated with the organizations that could partner with plaintiffs' counsel to notify individual class members of their potential relief in this case.

28. In April 2012, I prepared my affidavit and supporting material in support of plaintiffs' fee application and, in September 2012, prepared responses to defendants' objections thereto.

29. With regard to the District's appeal, I reviewed the draft appellee's brief and provided comments for revision to co-counsel. I participated in preparation for oral argument with co-counsel

and in a moot court with counsel for *amici*. I communicated with the named plaintiffs about the appeal. I attended the oral argument and thereafter updated the named plaintiffs about it. When the appeal decision issued in April 2013, I read the opinion and summarized the outcome for the named plaintiffs.

30. After remand, given my expertise in special education law and familiarity with the District's programs, I was again involved in the discovery process. For example, I provided TPM with information regarding the documents to seek and conferred with TPM throughout the discovery process to assess the materials that were produced.

31. Pursuant to FERPA, the District sent a letter out to all of the parents whose data may be shared with plaintiffs' counsel. TPM received many calls from the recipients of that letter asking for further information. Those calls were handled initially by staff at TPM, but I called those parents that had questions that required additional expertise. A numbered list of callers was prepared at TPM. I used either the number associated with the caller from the TPM list or the names of the parent and children when I recorded time devoted to this effort. The names of the parents and their children have been redacted in my time slips to initials to protect their privacy.

32. As a result of my ongoing work with individual clients, I had some familiarity with the District's SEDS database and had experienced the actual process by which children are evaluated and determined to be eligible for special education and related services and assigned to a school for implementation of the IEP. I have attended hundreds of eligibility and IEP meetings with parents, including those conducted at Early Stages and the C.A.R.E. office in DCPS, which it supplanted. I attended the sessions provided by the data staff at OSSE in March 2014, and advised and consulted with TPM regarding the review of SEDS files.

33. Between May and September 2013, I contacted many of the non-profit organizations in the District that serve children ages 3-5 for health care and other services to determine whether they knew about Early Stages and what feedback if any they were getting from their clients who sought services at Early Stages. I also contacted special education lawyers representing parents and guardians in the District who had interaction with Early Stages to determine what problems were still being experienced by parents when they sought services from Early Stages. This helped us develop our understanding of issues related to the District's program.

34. I continued to monitor the periodic *Blackman Jones* status conferences and the reports of the court-appointed monitor in order to provide co-counsel with information pertaining to data and other issues pertinent to *DL*.

35. I attended the trial in November 2015. I continue to be the team member to maintain communications with the named plaintiff parents and corresponded with them regarding various matters in Period 2, including the trial and decision.

36. My time slips, which provide the descriptions of my work, and total 151.80 hours, are in Attachment 4. I have made hand-written notes on those slips that correspond to reductions that I have made and I have catalogued those reductions in Attachment 6. I have deducted the following time from my request: (1) 1.1 hours of non-working travel time, marked as "Travel," (2) 2.2 hours for my attendance at the oral argument in the court of appeals in January 2013, (3) 6.4 hours for my attendance at the November 2015 trial, (4) 1.4 hours in 2015 and 2016 devoted to providing updates on the status of and developments in this case to the parents' special education bar in the District through the Special Education Attorneys Roundtable ("SEAR") meetings, marked as "Sear," (5) 12 minutes for communications that were tangentially related to this litigation, marked as "Tangential,"

(6) 3.5 hours that I devoted to communications with the press, which I marked as “Press,” (7) 3 hours that I spent on relief for individual class members after the court of appeals decertified the class, which I marked as “IR,” and (8) 0.9 hours that I spent on reviewing plaintiffs’ pre-trial proposed findings of fact and conclusions of law, which I marked “Pre-trial Findings of Fact.”⁷ The deductions total 18.7 hours (\$15,446.20).

37. I request payment for the remaining 133.1 hours of work during Period 2 at the rate of \$826 per hour (*see* para. 25 above), for a total of \$109,940.60.

38. My expense records for Period 2 are Attachment 5. I request reimbursement for the following expenses, which total \$187.61:

a. **Photocopies.** \$96.33 in photocopies. Large jobs were sent out to Green Press, which charged less than 8 cents per page. All other photocopying was charged at 15 cents per page.

b. **Postage.** \$34.01 in postage incurred in communications with the named plaintiffs and co-counsel. One of the named plaintiffs, Ms. Moore, mother of TF, is not comfortable using the internet and asked that all written communications be delivered to her by mail. Many communications with the other named plaintiffs were conducted through email, thereby avoiding postage charges.

c. **Local Transportation.** \$57.27 in cab fares to and from the office of co-counsel for meetings with co-counsel, plaintiffs’ expert witness, and to and from court. Charges for metro rides and use of my private vehicle are not included. One \$20 cab fare on September 30, 2014, was high due to particularly bad rush hour traffic.

⁷ That is 25 percent of my time working on the pre-trial proposed findings of fact and conclusions of law. *See* Affidavit of Bruce J Terris, Plaintiffs’ Exhibit 1, para. 69(e) (reducing such work by 25 percent).

Pursuant to 28 U.S.C. 1746, I declare under penalty of perjury that the foregoing is true and correct. Executed on September 26, 2016.

/s/Margaret A. Kohn
Margaret A. Kohn

Civil Action 05-0437

Plaintiffs' Attorneys Fees Application

Affidavit of Margaret A. Kohn

Attachment 7

MARGARET A. KOHN

HOME:
6007 Forest Rd.
Cheverly, MD 20785

OFFICE:

619 Pennsylvania Ave SE, 2nd Floor
Washington, D.C. 20003
(202) 544-1200
fax (202)-544-1201
Margaret.kohn07@gmail.com

EMPLOYMENT

Solo Law Practice

April, 2001 to present

Specializing in special education and disability discrimination
Providing representation to parents seeking appropriate educational services for children and youth with disabilities including Eligibility and IEP meetings, Transition Services, Mediation, Administrative Due Process Hearings and Federal Court Litigation.

Kohn & Einstein, partner

October, 1993 to April, 2001

Specializing in special education and disability discrimination

Solo Law Practice

November, 1990 to October, 1993

Specializing in disability and special education law

Associate

Bogin & Eig

July 1988 - November 1990

Represented children needing special education by assisting parents in evaluations, representation in meetings with school officials, administrative due process hearings, federal court litigation and related work. Represented parents seeking placements for adult children with mental retardation in D.C. Superior Court.

Teacher

D.C. Public Schools

1987-88 School Year

Classroom teacher for a 4-5 Grade combination class of gifted children at Shepherd Elementary School, Washington, D.C.

-2-

Consultant

July 1985-December 1986

ABA Child Support Project, National Legal Resource Center for Child Advocacy and Protection:
Report on Young Unwed Fathers and Child Support Enforcement

National Women's Law Center, Washington, D.C.
Proposal writing

MANNA, INC./For Love of Children (FLOC), Washington, D.C.
Sales of condominiums and single family homes to low and moderate income buyers for young, non-profit housing developer

National Women's Law Center

Washington, D.C.

1981 **Co-founder**

1981-83 **Attorney**

1984-85 **Managing Attorney**

Created independent not-for-profit public interest law office with staff of 15 and annual budget of \$650,000+. Responsible for precedent setting decisions in education and employment law. As a senior attorney, litigated in federal courts, testified before the U.S. Congress and worked with organizations and coalitions so that federal policies would better serve women and girls. Developed and administered multi-year nationwide training program for lawyers and educators on sex discrimination in education. Responsible for raising government and foundation funds as well as securing donations from individuals.

Women's Rights Project

Center for Law and Social Policy

Washington, D.C.

1975-81 **Attorney**

Litigated cases to improve federal enforcement of laws protecting and advancing women's rights in employment, education and health. Monitored federal enforcement of federal sex discrimination prohibitions in education and employment. Worked with coalitions to improve opportunities for women in nontraditional jobs and increase sex equity in schools and colleges. Won and monitored implementation of 1975 court order in precedent setting quality of care lawsuit to improve the District's only public hospital.

-3-

**Legal Services Bureau of the Correctional
Association of New York**

New York, N.Y.

1973-75 Staff Attorney

Center for Law and Social Policy

Washington, D.C.

1972-73 Fellow

EDUCATION

J.D. 1972 **Columbia University Law School**
New York, N. Y.
Award: Beck Prize for best first-year Real Property exam

B.A. 1969 **Swarthmore College**
Swarthmore, Pa.

Major: Sociology-Anthropology: Degree awarded with Distinction

1986-87 **University of the District of Columbia**

48 credits for D.C. teacher certification; Dean's List

OTHER ORGANIZATIONAL ACTIVITIES

Special Education Attorney Roundtable (SEAR), District of Columbia, participant

Maryland Special Education Lawyers (MDSEL), participant

Advocates for Justice and Education, Board member, Spring, 2002-March 2008

Disability Rights Council, Member Board of the Directors, July 1997 to 2002

National Women's Law Center: Member of the Board of Directors
1984-1994: Treasurer, 1991-94

Women's Legal Defense Fund: President, 1979-1980; Board of Directors, 1978-79; Nominating
Committee 1977; Screening Committee 1975-77

National Coalition for Women and Girls in Education: Enforcement Task Force Chair, July 1978-July

- 4 -

1985

Women's Equity Action League, Member of the Board of Directors and Legal Committee, 1986-1991

District of Columbia Bar: Member, Judicial Evaluation Committee, 1980-83, Member: Membership Benefits Committee, 1992-94

Disability Rights Education Defense Fund: Advisory Board, 1983-86

D.C. Commission on Licensure to Practice the Healing Arts: Consumer member, 1980-83

Bancroft Elementary School, Washington, D.C.: Volunteer Tutor 1976, 1977, 1985-86; Student teacher, 6th Grade, 1987

PUBLICATIONS

Author School Health Services and Nurse Practitioners: A Survey of State Laws, April 1979

Author Child Support Enforcement and Young Unwed Fathers, Spring 1987

Co-author Sex Discrimination in Education: Legal Rights and Remedies, 1983

ADMITTED TO PRACTICE BY THE FOLLOWING COURTS:

New York Appellate Division First Department

District of Columbia Court of Appeals

Court of Appeals of Maryland

United States Supreme Court

U.S. Court of Appeals for the District of Columbia Circuit,

Third Circuit, Fourth Circuit, Fifth Circuit, Tenth Circuit,
and Eleventh Circuit

U.S. District Court for the District of Columbia, Maryland,

the Eastern District of New York and the Southern District of New York

UNITED STATES DISTRICT COURT
 FOR THE DISTRICT OF COLUMBIA

Plaintiffs' Exhibit
17
 Civ. No. 05-1437 (RCL)

DL, <i>et al.</i> , on behalf of themselves and all others similarly situated,)	
)	
Plaintiffs,)	
)	Civil Action No. 05-1437 (RCL)
v.)	
)	
THE DISTRICT OF COLUMBIA, <i>et al.</i> ,)	
Defendants.)	
)	

AFFIDAVIT OF CYRUS MEHRI

I, Cyrus Mehri, hereby depose and state:

1. I am a founding partner of Mehri & Skalet, PLLC (“M&S”) and an attorney on behalf of the plaintiffs in the above-referenced action. I offer this affidavit in support of Plaintiffs’ Motion for an Award of Litigation Costs, Including Attorneys’ Fees and Related Expenses, which is being filed contemporaneously with this affidavit.

2. The fees and expenses accrued by me with regard to this case are discussed below. They relate to work that occurred during Period 2, as defined in the accompanying fee application (November 17, 2011, through June 22, 2016). Neither I nor my firm have been paid for any of my fees and expenses on this case.

3. M&S, which is located in Washington, D.C., and has 15 attorneys, represents plaintiffs in group actions and class actions. During the past 25 years, I have represented plaintiffs in dozens of class actions in a variety of subject matters, including employment discrimination and other civil rights issues, as well as consumer fraud and antitrust. Over the past 20 years, I have represented women and people of color in employment discrimination and other civil rights class actions. Some of my cases are listed in paragraph 8 below. Prior to private practice, I clerked for the Honorable John T. Nixon, Chief Judge of the Middle District of Tennessee. I graduated from Cornell Law School in 1988 where I served as Article Editor of the Cornell Journal on International Law. My firm biography is attached as Attachment A.

BILLING RATE

4. Throughout my career, I have engaged in complex federal litigation in the Washington, D.C., legal marketplace and in many other jurisdictions around the country. I am familiar with the marketplace for complex federal litigation in Washington, D.C., and other jurisdictions.

5. My standard hourly rate is \$795.00. M&S typically charges my standard hourly rate for all work performed by me on a matter including both class action and pay by the hour matters. My hourly rate does not change to reflect the simplicity or complexity of the particular task involved.

6. Based on my knowledge of the marketplace for complex federal litigation in Washington, D.C., my standard hourly rate is consistent with or slightly below the prevailing market rates for complex federal litigation for someone of my skill and experience. M&S views all firms engaged in complex federal litigation in Washington, D.C., as its competitors in that marketplace. In no way does M&S consider itself to be in competition with only other small or boutique firms. In order to be competitive in the marketplace for complex federal litigation, M&S sets its hourly rates in a manner that includes consideration of our competitors' rates, regardless of size of the competitor. I have had courts approve my firm's fee petitions with my then-current hourly rate dozens of times. I have never had a court reduce my fee request or question my M&S hourly rate.

7. Although I am the only attorney at M&S that billed on this case, I have attached as Attachment B the rates that were effective on June 22, 2016, for attorneys at M&S based on their years of experience.

8. I currently serve or have previously served as co-lead class counsel for certified plaintiff classes in *Roberts v. Texaco Inc.*, No. 94 Civ. 2015 (CLB) (S.D.N.Y. 1997) (settled for \$176 million and broad programmatic relief on behalf of African-American employees); *Ingram v. Coca-Cola Co.*, No. 1:98-CV-3679, 200 F.R.D. 685 (N.D. Ga. 2000) (settled for \$192 million and broad programmatic relief on behalf of salaried African-American employees); *Robinson v. Ford Motor Co.*, No. 1:04-CV-00844, 2005 U.S. Dist. LEXIS 11673 (S.D. Ohio 2005) (settled for \$10 million and creation of over 270 apprenticeship positions for African-Americans); *Augst-Johnson v. Morgan Stanley & Co.*, No. 1:06-CV-

01142 (D.D.C. 2007) (recently referred to Kollar-Kotelly, J.) (\$46 million settlement and programmatic relief on behalf of female financial advisors); *Amochaev v. Citigroup Global Markets d/b/a Smith Barney*, No. 3:05-cv-01298-PJH (N.D. Cal. 2008) (\$33 million settlement and similar injunctive relief consolidated with *Augst-Johnson* and recently referred to Kollar-Kotelly, J.); *Norflet v. John Hancock Life Insurance*, No. 3:04CV1099 (JBA) (D. Conn. 2009) (\$24.4 million settlement on behalf of African-Americans denied equal opportunity in the purchase of life insurance); *Carter v. Wells Fargo Advisors, LLC*, No. 1:09-CV-01752-CKK (D.D.C. 2011) (Kollar-Kotelly, J.) (\$32 million settlement and similar injunctive relief); and *Brown v. Medicis*, D.D.C., No. 1:13-CV-1345 (\$7.1 million for approximately 225 female employees, one of the largest gender case resolutions on a per class member basis).

9. For all of these cases, I have received the fees that I requested, which used the current rates at that time. In *Medicis*, the most recent case, Judge Leon approved our fee petition in its entirety in July of this year. The petition used my current hourly rate of \$795, which is what I am using here. In the *Medicis* case, Judge Leon complimented the work of my firm, stating during the Final Fairness Hearing that the “case has been very well and very efficiently pursued,” that my firm’s “pleadings have been outstanding,” and our “presentations to date have been outstanding.” No. 1:13-CV-1345 (Transcript of hearing of June 1, 2016).

10. This Court has also appointed my firm and myself as co-lead interim class counsel on behalf of consumers in *Mackmin v. Visa Inc., et. al.*, No. 1:11-CV-1831 (D.D.C. March 3, 2016) (J. Leon), which is on the docket for the U.S. Supreme Court this term.

TIME EXPENDED

11. I had two roles in this case. First, I did work related to class certification. I communicated with AARP to invite an *amicus* brief in support of plaintiffs on the topic of class certification. A group of *amici* (AARP, the Judge David L. Bazelon Center for Mental Health Law, the Council of Parent Attorneys and Advocates, the Lawyers’ Committee for Civil Rights Under Law, the National Disability Rights Network, the National Health Law Program, the National Federation of the Blind, and University Legal Services Protection & Advocacy Program) thereafter filed an *amicus* brief in

support of plaintiffs in the appeal. I also assisted lead counsel with class certification issues, including advice with regard to the briefing and the oral argument on appeal, and advice on class certification on remand. Lead counsel asked for my input on this phase of the case based of my class action expertise. I am a leading practitioner, writer and speaker on the changed legal landscape following *Wal-Mart Stores, Inc. v. Dukes*, 564 U.S. 338 (2011).

12. Second, I felt strongly that the parties should settle the case, especially considering the positive impact that it could have on disabled children of the City and I believed that, given my limited involvement in the case, I might help to broker a resolution. Lead counsel agreed. As a result, I reached out to the City to try and broker a resolution to this case. Unfortunately, I was not successful.

13. My firm uses Timeslips as a computerized method to maintain time records. I generally maintain records daily. I reviewed my time records, which are attached as Attachment C. In the exercise of billing judgment, I excluded several hours of my time and paralegal time. I am seeking compensation for 26.75 hours of time, totaling \$21,266.25.

EXPENSES

14. I am not seeking compensation for any expenses my firm incurred in this matter.

WORK OF OTHER ATTORNEYS

15. Other attorneys for plaintiffs in this case request that this Court award them fees based on the hourly rates from the LSI *Laffey* Matrix. Those rates are:

Years	Hourly Rate
20 th +	\$826
11 th -19 th	\$686
8 th -10 th	\$608
4 th -7 th	\$421
1 st -3 rd	\$342
Paralegals/Law Clerks	\$187

16. Based on my knowledge of the market for complex federal litigation, these rates are consistent with prevailing market rates.

17. Pursuant to 28 U.S.C. 1746, I declare under the penalty of perjury that the foregoing is true. Signed on September 26, 2016, in Washington, DC.



CYRUS MEHRI

Attachment A



Firm Resume

Mehri & Skalet, PLLC
1250 Connecticut Ave., NW, Suite 300
Washington, DC 20036
Tel: (202) 822-5100
Fax: (202) 822-4997
www.findjustice.com

OUR BACKGROUND AND COMMITMENT

Mehri & Skalet PLLC (M&S) believes that powerful institutions and corporations are not above the law. This belief inspires our work and informs our practice. Whether the target is deceptive sales practices or unfair employment practices, M&S uses the legal system to correct the imbalance of power that often favors big business over private citizens.

In cases ranging in focus from consumer protection to civil rights to corporate fraud, we are tenacious, creative and public-spirited in our approach to legal work. We do high impact cases with high integrity, and have a track record for getting far-reaching results. We prove every day that the law can be used to achieve fairness and justice.

M&S is a law firm with seasoned attorneys who fight complex cases on behalf of employees, consumers, investors, citizen groups and small businesses. M&S attorneys bring together decades of front-line experience in litigation and issue advocacy and build upon strong ties with public interest, consumer, labor, whistleblower and civil rights organizations. M&S combines superior legal work and advocacy to serve our clients.

Our search for justice for our clients takes us to federal and state courts across the country, where we primarily litigate civil and consumer rights class actions; cases involving corporate abuse in real estate, financing and other areas; whistleblower suits alleging fraud on behalf of the government; as well as individual cases with a public interest impact.



PRACTICE AREAS

Civil Rights

Mehri & Skalet, PLLC, has represented employees in discrimination cases filed across the United States. Currently the firm is actively investigating, litigating or participating in settlement talks in numerous matters involving employment discrimination. Mehri & Skalet also prosecutes cases regarding racial bias against consumers in the market place.

Using federal and state anti-discrimination laws, Mehri & Skalet represents individuals fighting unlawful discrimination that adversely impacts their employment, business, or financial circumstances. While M&S maintains a broad-based practice, many of our cases fit into these general categories of discrimination:

- * “glass ceiling” and discrimination in promotions and advancement
- * discrimination in pay, and distribution of business opportunities
- * discrimination in employer testing and other selection procedures
- * discrimination in contract formation and financial endeavors

Partnerships with the Non-Profit Community

M&S has forged creative partnerships with key civil rights organizations to address inequities in the workplace:

The Madison Avenue Project

The Madison Avenue Project was formed by the NAACP and M&S to reverse the widespread, entrenched discrimination against African American professionals employed in the advertising industry. For more than forty years, the advertising industry has been investigated and charged by government agencies for discriminatory employment practices which resulted in a deficiency of African American new hires and promotions. The industry has fallen far short in adequately addressing these disparities. The Madison Avenue Project seeks to redress the historical discrimination against African American advertising professionals and to create systematic changes in the culture, policies, and practices of the advertising



agencies to promote diversity and equality.

The Women on Wall Street Project

On April 6, 2004, the National Council of Women's Organizations asked M&S to coordinate an investigation of eight financial services companies that would be called the Women on Wall Street Project. The NCWO asked our firm to investigate because it had heard from women in many of these companies. Their stories indicate that many of America's top financial services companies are rife with gender discrimination, ranging from pay inequity and glass ceiling issues to sexual harassment. Since 2004, we have been receiving intake calls from employees at several financial sector companies, and we, in collaboration with experienced co-counsel, are investigating allegations of gender discrimination.

Key Civil Rights Cases

A sample of current and past civil rights cases prosecuted by M&S lawyers includes:

* **Brown v. Medicis Pharmaceutical Corp.**

M&S and co-counsel represent a proposed class of over 200 women who have reached a settlement with Medicis that has been preliminarily approved by the United States District Court for the District of Columbia. The class alleges that Medicis' top executive created a sexually hostile environment for the women in its sales force and discriminated against them in pay and promotions. Under the settlement, Medicis, which was acquired by Valeant Pharmaceuticals International after the events at issue in the case, has agreed to pay a total of about \$7.1 million, an average of over \$30,000 per class member, and to provide comprehensive programmatic relief. More information about the settlement can be found at www.medicisgendersettlement.com.

* **White v. Lynch**

M&S represents a certified class of over 400 women alleging that the Federal Bureau of Prisons permitted the inmates at its largest correctional complex to create a hostile work environment over many years toward female employees. The women

allege that many managers were hostile toward their presence in the workforce and that the Agency did not adopt reasonable measures to prevent or deter the virtually incessant harassment. Discovery has been completed in this case before an EEOC Administrative Judge, and M&S anticipates that cross-motions for summary judgment will be filed in the Spring of 2016, with a trial of any liability issues not resolved by summary judgment to occur later in 2016.

*** Roberts v. Texaco**

Six plaintiffs filed *Roberts v. Texaco* as a class action in 1994, alleging that the company discriminated against African-American employees by failing to promote and adequately compensate them in relation to Caucasian employees. Each of the six plaintiffs hit a glass ceiling when they tried to advance to management. In addition, in an industry that was known to be behind in diversity, Texaco's minority representation was significantly lower than others in the oil industry. Discovery revealed that African Americans were significantly under-represented in higher levels of management. The investigation also revealed that Texaco maintained a secret list of "high potential" employees and no African Americans were on that list. The case was settled in 1996 for what was the largest sum ever allowed in a race discrimination case, \$176.1 million. In addition to damages, the settlement called for pay raises for about 1,400 black employees as well as systemic programmatic relief.

*** Ingram v. The Coca-Cola Company**

Four named plaintiffs represented a class of 2,200 current and former salaried, African-American employees of Coca-Cola in this class action filed April 1999 in the Northern District of Georgia. The case involved race discrimination in promotions, compensation and evaluations. The plaintiffs alleged a substantial difference in pay between African-American and white employees; a "glass ceiling" that kept African-Americans from advancing past entry-level management positions; "glass walls" that channeled African-Americans to management in areas like human resources and away from power centers such as marketing and finance; and senior management knowledge of these problems since 1995 and a failure to remedy them.

On June 7, 2001, the Court approved a final Settlement Agreement, valued at

\$192.5 million and designed to ensure dramatic reform of Coca-Cola's employment practices. A court-appointed task force chaired by Alexis Herman, former Secretary of Labor, issued several annual task force reports highlighting the progress Coca-Cola made in complying with the Settlement Agreement.

*** Robinson v. Ford Motor Company**

M&S and the Equal Employment Opportunity Commission (“EEOC”) each filed a lawsuit on December 27, 2004, challenging Ford's procedures for selecting apprentices nationwide. These suits alleged that, since 1997, Ford had discriminated against African-Americans on the basis of race in selecting apprentices. The two cases were consolidated in the Southern District of Ohio.

A Settlement Agreement was approved by Judge S. Arthur Spiegel on June 15, 2005. Judge Spiegel said “The settlement provides substantial monetary and non-monetary benefits to the class... as well as extensive systemic relief. The new testing procedures benefitted not only the class members, but potentially also all employees and future employees of Ford.” The EEOC held a Commissioners’ meeting that focused on this settlement and removing bias in testing procedures on May 16, 2007. A companion case, Love v. Automotive Components Holdings, LLC et al. received final approval on December 20, 2007.

*** Augst-Johnson v. Morgan Stanley & Co., Inc.**

On June 22, 2006, M&S filed a lawsuit against Morgan Stanley on behalf of female financial advisors. The complaint alleged that Morgan Stanley engaged in systematic gender discrimination against women financial advisors with respect to compensation, account assignments, partnership participation, promotions, training and mentoring and other terms and conditions of employment, all in violation of Title VII of the Civil Rights Act of 1964, as amended. On October 26, 2007, the U.S. District Court of the District of Columbia approved a class action settlement with Morgan Stanley and the class of approximately 2,700 women Financial Advisors and Registered Financial Advisor Trainees employed at Morgan Stanley.

The five-year settlement included a lump sum payment by Morgan Stanley of



\$46 million and significant programmatic relief. The parties estimate that, in addition to the Settlement Fund, the changes called for in the programmatic relief will increase the earnings of women financial advisors by at least \$16 million over five years and the diversity efforts by the Company over five years will cost an additional \$7.5 million. The parties jointly selected an independent diversity monitor to oversee the settlement and two outside experts to develop non-discriminatory human resource policies and procedures.

***Amochaev v. Smith Barney**

On March 31, 2005, plaintiffs in Northern California filed a nationwide class-action lawsuit on behalf of female Financial Advisors who alleged that Smith Barney discriminated against them in account distribution, business leads, referral business, partnership opportunities, and sales support. On August 13, 2008, U.S. District Judge Phyllis Hamilton granted final approval to a settlement of this gender discrimination case against Smith Barney. The settlement provides significant programmatic relief, including an independent diversity monitor, as well as over \$33 million to the class.

***Maxey v. ALCOA**

On February 14, 2002, five named plaintiffs representing a class of hourly African-American and Hispanic Cleveland Works employees of ALCOA, Inc., filed a class action lawsuit in the Northern District of Ohio. The case involved allegations that ALCOA's system of selecting apprentices at ALCOA'S Cleveland Works Facility discriminated on the basis of race and national origin. In 2003 the parties reached an innovative settlement, which the Court approved. The settlement called for the creation of a new testing procedure created by a jointly selected independent expert, the selection of new apprentices from the class, and a \$500,000 Educational Foundation to benefit the Black and Hispanic communities in Cleveland. The Settlement also provides monetary relief of \$10,000 in compensatory damages to each class member who took the apprenticeship selection test since February 14, 1996, and did not enter an apprenticeship program.

***Carter v. Wells Fargo Advisors**



In 2009, as part of our Women on Wall Street Project, M&S along with co-counsel filed a class action lawsuit against Wachovia Securities, LLC, alleging that the company engaged in systemic gender discrimination against its female financial advisors. In December 2010, the parties reached a proposed class settlement that includes a \$32 million fund from which awards, fees and costs will be paid. The settlement also requires the company to make significant changes to its internal policies that affect the distribution of business opportunities, including the appointment of an independent monitor and a jointly selected expert. In June 2011, the Court approved the settlement.

*** Norflet v. John Hancock Life Insurance Company**

On July 7, 2004, M&S, along with co-counsel, initiated a ground-breaking class action lawsuit against John Hancock Life Insurance for its company-wide policy prohibiting the sale of life insurance to African-Americans in the early to mid-20th century. The lawsuit also confronted John Hancock's practice of offering African-Americans substandard and seriously inferior life insurance products when it did sell insurance to African-Americans. The named Plaintiff is an African-American woman whose mother had purchased life insurance policies from John Hancock in 1940s and 1950s. The Court granted the Plaintiff's motion for class certification in September of 2007.

The parties reached a settlement in 2009, which created a \$24 million fund to pay claims to the class plus fees and costs. There is also a large *cy pres* component of approximately \$15 million, which is being distributed to organizations that benefit African-American communities by a court-appointed committee.

Whistleblower Protection

Whistleblowers serve as society's "canaries in the coal mine," alerting the public to fraud, waste, abuse, and criminal activity. M&S recognizes the critical role whistleblowers can play in: protecting public funds, ensuring the safety of food and drugs, protecting the environment, exposing securities laws violations, and in disclosing problems in many other sectors of the economy.

M&S attorneys are involved in investigating and litigating cases under the



Federal False Claims Act involving frauds perpetrated against the Government concerning subsidized housing, defense, office equipment and supplies, health care, and federal grants.

Similarly, M&S attorneys assist whistleblowers in filing tips with the Securities and Exchange Commission, Internal Revenue Service, Commodity Futures Trading Commission, U.S. Attorney General, Federal Deposit Insurance Corporation, and Treasury Department concerning violations of standards maintained by those agencies. Successful prosecutions based on this information may result in a whistleblower award.

The firm represents whistleblowers who have been subjected to retaliation in violation of any of the twenty-four major federal whistleblower protection provisions. M&S also litigates cases under the state equivalents of those federal laws.

Workers' Rights

Wage and hour laws exist to protect employees, who are often dependent upon their employers for financial security, from being exploited in the workplace. Similar to victims of discrimination, employees who have been denied wages or benefits are often unaware of how to enforce their rights. At M&S, we use our understanding of the law to ensure that workers receive the wages and benefits they have earned. The federal Fair Labor Standards Act (FLSA) requires that employers pay minimum wage for hours worked each week and pay overtime to all non-exempt workers, generally after forty hours a week. Many salaried or commissioned workers may be considered non-exempt under federal law. In addition, numerous states provide greater worker protections than federal law, such as reimbursement of most expenses, paid meal and rest periods, and higher minimum wage.

M&S represents a class of about 25,000 federal employees who were required to work during the partial government shutdown in October 2013 but were not paid on their regularly scheduled paydays by the government. They allege that they were not timely paid minimum wage and, to the extent that they were required to work overtime, were not timely paid overtime wages either. The Court of Federal Claims



has ruled that the government did indeed violate the FLSA, but has not yet decided whether the class is entitled to liquidated damages.

M&S also is litigating numerous cases against the Bureau of Prisons in front of arbitrators for correctional officers and other employees who work in facilities located from New Jersey to Hawaii. These cases are proceeding under many different theories, such as that the Bureau has not paid overtime to employees who in reality work from the time they enter the portal to the prison until the time they leave that portal, not the more circumscribed hours for which the Bureau pays them. In other cases the workers argue, for example, that they have not been paid appropriately for meal breaks and have not been paid for overtime in a timely manner.

The firm also litigates FLSA cases against private employers. For example, in 2008, M&S, along with co-counsel, filed suit on behalf of a putative class of Bank of America mortgage loan officers who were misclassified as exempt from the FLSA and thereby were improperly denied reimbursement of expenses, in violation of California law. In September 2010, the Court approved the class action settlement, which provided for payment of more than \$8 million to class members.

Real Estate/ Housing/Lending

Guided by the expertise of M&S principal Steve Skalet, who has over 35 years of litigation and transactional experience in real estate and financial fraud, M&S represents clients in cases involving real estate, lending and debt collection practices, and defective construction materials.

In the class action context, the firm handles cases under the Equal Credit Opportunity Act, Truth in Lending Act, Fair Debt Collection Practices Act, Real Estate Settlement Procedures Act and other federal and state consumer protection statutes.

*** Reverse Mortgages: *Bennett v. Donovan and Plunkett v. Castro***

M&S represented plaintiffs in a series of cases in federal court in the District of Columbia that resulted in three landmark reforms in the federal reverse mortgage program: (1) HUD revised the program in 2015 to allow surviving spouses of



borrowers to obtain protection from foreclosure; (2) HUD rewrote its model mortgages in 2014 to protect spouses from foreclosure; and (3) HUD withdrew illegal “guidance” it had issued in 2008 that prevented borrowers from selling their homes to spouses or family members at fair market value.

Congress enacted the Home Equity Conversion Mortgage (HECM) program almost 30 years ago. Its purpose is to allow elderly borrowers to access the equity in their homes, while protecting them from displacement by predatory lenders. An explicit statutory protection in federal law is that spouses of reverse mortgage borrowers should be treated as “homeowners,” even if they are not listed as borrowers on the mortgage. It also allows them to sell their property at or slightly under its appraised value to a spouse or family member, so that the family will not lose its home if housing values drop. Borrowers pay for these protections through required contributions to a federal insurance program. Congress did not want elderly individuals facing foreclosure at the worse possible moment in their lives: right after they lose a spouse.

Due to HUD’s failure to protect spouses in its regulations, this is exactly what happened. M&S and AARP Foundation Litigation sued the U.S. Department of Housing and Urban Development (HUD) in 2011 on behalf of three individuals, all of whom faced foreclosure soon after they lost their spouses. HUD immediately withdrew its illegal guidance restricting the borrower’s right to sell the property. The Court of Appeals for the D.C. Circuit ruled in 2013 that Plaintiffs had standing to challenge HUD’s illegal regulations, and also opined that HUD’s regulations were illegal. Soon afterward, a federal district court ruled that HUD’s regulations were illegal, and remanded the matter to HUD to fashion a remedy. Beginning with mortgages issued in August 2014, all surviving spouses in the reverse mortgage program will be eligible for protection from foreclosure. In June 2015, HUD announced a program allowing surviving spouses to stay in their homes by having the ir reverse mortgages assigned to HUD.

Based on HUD’s own estimates, this case will benefit thousands and likely tens of thousands of current borrowers and their families, and all future borrowers in the



program.

***Amerisave Mortgage Corporation**

In 2011, M&S, along with co-counsel, filed a class action lawsuit in the California Superior Court for San Francisco County against Amerisave Mortgage Corporation for violating the Truth in Lending Act through their deceptive advertising practices in the selling of residential mortgages. The suit alleges that Amerisave promises customers they can quickly request a “lock-in” of low advertised online rates, requires the consumer to pay for a property appraisal prior to the rate being locked-in, and then allows the lock in period to expire, locking the customer into the agreement at a higher rate. In 2013, the case was settled for \$3.1 million, which was distributed to class members to compensate them for a portion of the improper fees they paid.

*** Twin Towers Tenant Association v. Capitol Park Associates**

M&S also advocates for tenants’ rights. We have been lead counsel in a series of cases in the District of Columbia fighting to protect and preserve tenants’ rights of first refusal whenever a residential apartment building is sold. We assist tenant associations in purchasing their buildings establishing condominium or cooperatives. Where appropriate, we seek innovative ways to preserve affordable housing. Determined to keep the project as long-term affordable housing, we worked with community representatives, real estate financiers, and federal regulators to help the Tenants’ Association implement a unique long-term solution. Not only did M&S help save the homes of more than 800 people, it secured their futures by empowering them with eventual ownership of the properties.

*** Metropolitan Money Store**

Mehri & Skalet represented numerous homeowners who had been stripped of hundreds of thousands of dollars of home equity through a mortgage rescue scam that lured individuals facing potential foreclosure to “temporarily” sign away the deeds to their homes with a promise of redemption after their credit improved through credit counseling. This practice allowed scam artists to gain access to home



equity which was then stolen from the homeowner. The *Washington Lawyers' Committee on Civil Rights and Urban Affairs* referred the clients to *Mehri & Skalet*, which provided *pro bono* representation to these victims of fraud. In 2009, we successfully resolved the cases to protect the homeowners.

M&S also handles both individual and class action product liability cases, with an emphasis on defective construction materials, such as defective water pipes (polybutylene pipe), defective exterior siding products (artificial stucco, siding or roofing), and fire retardant plywood (FRT Plywood). Each of these products were foisted on an unsuspecting public by manufacturers who refused to voluntarily take responsibility for their defective products, which caused enormous economic and health problems.

Consumer Protection

The strength and integrity of our practice benefits from our attorneys' strong ties to premier consumer advocate organizations, such as the Center for Auto Safety, the Center for Science in the Public Interest and Public Citizen.

Mehri & Skalet remains true to its roots in the U.S. consumer movement. In each class action we investigate or file, we never lose sight of the ultimate beneficiaries of our work – the consuming public.

M&S attorneys investigate and litigate all types of consumer and small business protection issues, including:

- * Automotive and other consumer product defects and recalls
- * Antitrust, unfair pricing and deceptive billing practices
- * Predatory lending, credit and insurance schemes
- * Consumer and small business on-line and support services
- * Fraud or unfair practices in real estate, banking and finance
- * Medical, pharmaceutical and healthcare-related fraud

M&S is litigating or has settled a number of consumer class actions. These



include:

*** Hunter v. MedStar Georgetown University Hospital et al.**

M&S represents consumers in a proposed class action alleging that two D.C. hospitals overcharge their patients for copies of their own medical records. Hospitals and other care providers received millions of federal tax dollars to convert to electronic medical recordkeeping systems, in order to make medical care more cost-efficient and accessible for patients. Yet defendants continue charging the same high per-page rates for electronic records that they charged for paper records that had to be manually copied.

In 2015, plaintiffs won a motion to remand the case to D.C. Superior Court. The case is in its early stages.

*** Worth v. CVS**

M&S is co-counsel with Center for Science in the Public Interest on behalf of two consumers in a proposed class action filed in federal court in the Eastern District of New York, alleging that CVS falsely markets its “Algal-900 DHA” product to improve memory. Plaintiffs allege that the study CVS relies on for its claim was conducted by the in-house scientists for another supplements company, which withdrew its own product from the market after the Federal Trade Commission warned that the study did not support its memory claims. In addition, Plaintiffs allege that larger and more rigorous studies have consistently found no effect of DHA supplements on memory.

*** In re Apple MagSafe Adapter Litigation**

M&S served as co-lead class counsel on behalf of millions of consumers, alleging that Apple’s “MagSafe” adapter, which powered its laptop computers, was defectively designed and would prematurely fray and fail to work. In 2015, a California federal court approved a settlement providing up to 100% cash refunds for adapters that failed in the first year of use, and a percentage of the purchase cost for adapters that failed up to three years after purchase. In addition, Apple provided a free, redesigned adapters for anyone who presented one at an Apple store.



* **Schaffer v. Hewlett Packard Company**

This lawsuit alleged that certain models of the HP Pavilion desktop computer contained a defective motherboard that caused the computers to suffer performance problems such as “hanging, freezing and locking.” HP denied these allegations and admitted no wrongdoing. M&S negotiated a settlement with HP that provided class members with a direct monetary payment, reimbursement of out-of-pocket expenses, and/or a discount certificate. A federal judge in Michigan approved the settlement in 2006.

* **Niewinski, et al. v. Resurrection Health Care Corporation**

On September 16, 2004, M&S filed a lawsuit in Illinois state court on behalf of uninsured patients against Resurrection Health Care Corporation (Resurrection), a not-for-profit health care system that includes nine hospitals in the Chicago metropolitan area. The suit alleged that Resurrection charged uninsured patients substantially more than patients covered by insurance, and failed to provide poor patients with an adequate opportunity to apply for financial assistance to pay their bills. Plaintiffs further alleged that in addition to price-gouging the uninsured and reducing its charitable expenditures, Resurrection employed unjust methods of collecting overdue bills, harassing even the poorest patients with collection lawsuits and garnishing their wages. In January 2009, the court approved a settlement in which Resurrection agreed to recalculate patients’ bills and give refunds to class members totaling as much as \$3 million, as well as giving a 25 percent discount to uninsured patients.

* **Lazo v. Mercury Marine**

In the fall of 2004, M&S successfully settled this class action lawsuit against Mercury Marine for excessive problems with their 2000-2004 2.5L and 3.0L OptiMax Engines. The problem was generated from the powerhead and/or direct fuel injection system, which at times caused engines to cut off or freeze. Pursuant to the settlement, all members of the class were given an extended warranty and/or a rebate on Mercury or QuickSilver Products.



*** Car Dealership Overcharges**

Some new car dealers overcharge their customers for legitimate fees or add bogus charges when they lease a car. M&S has been named class counsel in several class actions in New Jersey charging car dealers with consumer fraud for such overcharges. Many of these cases have recently settled, tens of thousands of Class Members each receiving certificates redeemable for both cash and credit.

*** Telephone Service Overcharges**

M&S brought several cases concerning overcharges and deceptive practices against local, long distance, and cell phone service providers. M&S settled a class action against Verizon New Jersey, Inc. for failing to implement a small business discount. Verizon overcharged Class Members by \$1.01 per month for between one to four auxiliary phone lines. Under the terms of the settlement, Class Members will receive a payment or credit of \$1.65 for each such overcharge. M&S also brought a successful class action against Verizon-New Jersey for charging customers for inoperable services. The case also resulted in a substantial settlement.

*** Ford Focus Brake Defects**

In 2002, M&S filed a class action against Ford Motor Company alleging defects in the front braking system of the 2000 and 2001 Ford Focus. M&S represented plaintiffs who alleged that the braking system contains a systemic defect that caused the front brake pads and rotors to wear out prematurely, forcing unsuspecting owners to spend hundreds of dollars in repairs and maintenance on a recurring basis. In December 2005, M&S, together with co-counsel, filed a motion to certify a class of all persons who purchased or leased one of these vehicles in the State of California. The motion contained multiple reports from experts, hundreds of pages of documents and depositions, and statements from clients. The Los Angeles County Superior Court certified a proposed class in 2006. In July 2008, the court granted final approval of a settlement that provided full cash reimbursement for qualifying parts and labor for all California owners and lessees who experienced premature front brake wear, including reimbursement for brake pads and rotors.

* **Mitsubishi Galant Brake Defects**

M&S settled a class action in 2004 against Mitsubishi for a defect in the brake system of the 1999 Mitsubishi Galant. The defect caused extremely premature wear on the rotors and brake pads grossly in excess of normal use. Plaintiffs raised claims of breach of warranty and consumer fraud. Mitsubishi denied all claims. The parties reached a settlement where Class Members received either an inspection and repair of the brake problem, a reimbursement of all out-of-pocket expenses of brake and/or rotor repairs, or a service voucher.

* **Apple Computer**

M&S filed and settled a class action against Apple Computer, Inc. that obtained relief for a nationwide class of buyers who unwittingly purchased an Apple wireless networking product that was incompatible with America Online ("AOL"). The settlement secures out-of-pocket damages of \$45 for each class member and changes to Apple's notice and packaging practices related to this product. The settlement was approved in 2002.

* **Bridgestone-Firestone, Inc.**

In August 2000, M&S filed suit against Bridgestone-Firestone, Inc. in the first weeks of the company's massive tire recall effort. *Farkas v. Bridgestone-Firestone* sought to enjoin Firestone from discontinuing its policy of reimbursing customers for the cost of non-Firestone replacement tires. The restraining order obtained in *Farkas* was enforceable against Firestone on a nationwide basis and immediately produced a dramatic reversal in company policy. As a result, hundreds of thousands of Firestone customers retained the ability to replace their defective tires with tires from another manufacturer, and then seek reimbursement from Firestone -- thus speeding the efficient removal of millions of unsafe tires from our nation's roads.

Antitrust and Commodities Manipulation

Vigorous enforcement of antitrust laws is essential to a free and fair marketplace. The Supreme Court has made clear that private antitrust lawsuits are an important part of antitrust enforcement, in *Hawaii v. Standard Oil Co. of Cal.*, 405 U.S.

251, 262 (1972).

Every violation of the antitrust laws is a blow to the free-enterprise system envisaged by Congress. Congress encourages private attorney general enforcement of antitrust laws. It is in the spirit of a “private attorney general” that M&S prosecutes antitrust class action litigation: to combat and deter anticompetitive practices, and to give wronged consumers and businesses a remedy for illegal behavior in the marketplace.

M&S attorneys have served as counsel in antitrust class actions, including in cases challenging monopolization by brand-name drugmakers, who thwart competition by generics, and price-fixing in the market for air freight services and auto wire harnesses. M&S also has experience in class actions under the Commodity Exchange Act, 7 U.S.C. § 1. This statute provides a private right of action to futures traders who were harmed by manipulative activity.

* **ATM Antitrust Litigation**

M&S, along with Quinn Emmanuel and Hagens Berman, represents consumers in a proposed antitrust class action, alleging that they have paid inflated “access fees” in connection with ATM withdrawals. Plaintiffs allege that Visa and MasterCard, who own the predominant ATM networks over which withdrawals are processed, contractually forbid ATMs from charging higher access fees for transactions processed over Visa and MasterCard’s networks, even though those networks pay the lowest “interchange” rates to ATM owners. The result of this illegal price-fixing agreement is that ATMs must raise their prices across the board, so consumers pay more.

In 2015, Plaintiffs received an excellent ruling in the Court of Appeals for the D.C. Circuit, stating that Plaintiffs had stated a claim for relief under federal antitrust law, and remanding the matter for further proceedings. 797 F.3d 1057 (D.C. Cir. 2015).

Investor Protection

Corporate fraud at some of the nation's leading corporations has harmed



countless institutional and individual investors. Scores of hardworking Americans have suffered losses in their pension funds, retirement accounts, college and general savings accounts as a result of fraudulent conduct. We believe that investors deserve zealous representation in their fight for a return of those assets. M&S represents institutional investors concerned about securities fraud and corporate governance, as well as 401(k) beneficiaries enforcing ERISA.

Founding partner Cyrus Mehri has represented shareholders in securities class actions for many years. His experience includes recovering assets for those involved in the elaborate scandals involving junk bonds committed by Ivan Boesky and Michael Milken in the 1980's, as well as savings and loan institutions. In addition, Mr. Mehri served as class counsel in *Florin v. NationsBank* in 1993, which restored \$16 million to a pension plan that was bilked by company insiders at Simmons Mattress Company. And in 1991, *In re Bolar Pharmaceutical Co.* he helped to return over \$25 million to defrauded shareholders. Mr. Mehri was also the principal attorney in *Roosevelt v. E. I. Dupont de Nemours and Co.*, which established the right for shareholders to go to federal court to require corporations to include proxy resolutions. M&S helped prosecute a securities fraud case against AOL Time Warner – one of the largest such cases in U.S. history, it settled for \$2.4 billion. M&S's ERISA cases involve Visteon, Avaya and National City.

Mr. Mehri also co-authored a series of articles on securities enforcement and corporate governance including *Labor & Corporate Governance* articles entitled "Stock Option Equity: Building Democracy While Building Wealth" (November 2002), and "The Latest Retreat by the SEC" (February 2003). Mr. Mehri also co-authored an article in *The Journal of Investment Compliance* (Winter 2002/2003) entitled "Slipping Back to Business as Usual, Six Months After the Passage of Sarbanes-Oxley". Mr. Mehri co-authored a letter to the SEC regarding diversity in Board appointments.



ATTORNEY BIOGRAPHIES

Cyrus Mehri

Cyrus Mehri is a founding partner of the law firm Mehri & Skalet, PLLC.

The business press has long followed Mr. Mehri's work. The New York Times stated, "Mr. Mehri's vision for corporate America involves sweeping change, not the piece meal kind." Fast Company says "He is something of a one-man army in the battle against business as usual . . . [H]is impact - both in terms of penalties and remedies - is undeniable." In 2001, he was named by Regardie's Power magazine as one of "Washington's Ten Most Feared Lawyers" and in 2003, by Workforce magazine as "Corporate America's Scariest Opponent."

Mr. Mehri served as Class Counsel in the two largest race discrimination class actions in history: *Roberts v. Texaco Inc.* which settled in 1997 for \$176 million and *Ingram v. The Coca-Cola Company*, which settled in 2001 for \$192.5 million. Both settlements include historic programmatic relief, featuring independent Task Forces with sweeping powers to reform key human resources practices such as pay, promotions and evaluations.

Trial Lawyers for Public Justice named Mr. Mehri a finalist for "Trial Lawyer of the Year" in 1997 and 2001 for his work on the Texaco and Coca-Cola matters respectively.

In September of 2008, Mr. Mehri testified before the Senate Judiciary Committee alongside Supreme Court litigant Lilly Ledbetter. Mr. Mehri's testimony called for diversifying the pool of potential judicial nominations not just in terms of race and gender but also in terms of life and work experience.

In October of 2008, Mr. Mehri co-authored a paper called "21st Century Tools for Advancing Equal Opportunity: Recommendations for the Next Administration." This paper was released by the American Constitution Society along with papers by several other authors including Senator Ted Kennedy and Former Attorney General Janet Reno.

On April 6, 2004, Mr. Mehri, along with Martha Burk and the National Council of Women's Organizations announced a project called "Women on Wall Street." The project focuses on gender discrimination in financial institutions.



In 2007, Mehri & Skalet announced a \$46 million settlement with Morgan Stanley on behalf of female financial consultants. In 2008, the firm announced a comparable \$33 million settlement with Smith Barney. Both are settlements that have sweeping reforms that will fundamentally change the allocation of business opportunities at these brokerage houses.

Mr. Mehri served as lead counsel in *Robinson v. Ford Motor Company*. The settlement created a record 279 highly-coveted apprenticeship positions for African American employees as well as payment of \$10 million. In a May 2007 EEOC Commissioners meeting, Mr. Mehri and others testified about this settlement's significance on testing procedures in the workplace.

On September 30, 2002, Mr. Mehri and Johnnie L. Cochran, Jr. released the report, *Black Coaches in the National Football League: Superior Performance, Inferior Opportunities*. The report became the catalyst for the NFL's creation of a Workplace Diversity Committee and the adoption of a comprehensive diversity program. The NFL now has a record number of African American head coaches. Mr. Mehri serves as counsel for the Fritz Pollard Alliance, an affinity group for minority coaches, front office and scouting personnel in the NFL.

Mr. Mehri represents institutional investors concerned about securities fraud and corporate governance. Mr. Mehri has a long history of representing defrauded investors, pensioners and consumers, as well as small businesses subjected to price-fixing, in other class actions. For example, in 1993 *Florin v. Nations Bank* restored \$16 million to a pension plan that was bilked by company insiders at Simmons Mattress Company. In 1991, *In re Bolar Pharmaceutical Co.* returned over \$25 million to defrauded shareholders. Mr. Mehri serves as co-lead counsel in numerous consumer class actions. Mr. Mehri helped to prosecute one of the largest securities cases in history, a \$2.5 billion settlement with AOL Time Warner.

Mr. Mehri co-authored a series of articles on securities enforcement and corporate governance including Labor & Corporate Governance articles entitled "Stock Option Equity: Building Democracy While Building Wealth" (November 2002) and "The Latest Retreat by the SEC" (February 2003). Mr. Mehri also co-authored an article in *The Journal of Investment Compliance* (Winter 2002/2003) entitled "Slipping



Back to Business As Usual, Six Months After the Passage of Sarbanes-Oxley.”

He is also the co-author of the article: “One Nation, Indivisible: The Use of Diversity Report Cards to Promote Transparency, Accountability, and Workplace Fairness”; Fordham Journal of Corporate and Financial Law, 9, 99-152 (with Andrea Giampetro-Meyer & Michael B. Runnels).

For the 2008 National Employment Law Association Convention, Mr. Mehri co-authored a paper, "A 'Toolbox' for Innovative Title VII Settlement Agreements."

Mr. Mehri graduated from Cornell Law School in 1988, where he served as Articles Editor for the Cornell International Law Journal. After law school, he clerked for the Honorable John T. Nixon, U.S. District Judge for the Middle District of Tennessee. Mr. Mehri has received the Outstanding Youth Alumnus Award from Hartwick College and the Alumni Award from Wooster School in Danbury, Connecticut “for becoming a beacon of good, positively affecting the lives of many.” Most recently, Mr. Mehri was asked to give the 2009 Commencement Speech at Hartwick College and the Founder’s Day Speech at Wooster School.

The Pigskin Club of Washington, DC granted Mr. Mehri, the prestigious “Award of Excellence.”

In March 2003, the Detroit City Council passed a testimonial resolution honoring Mr. Mehri and wishing him “continued success in changing the fabric of America.”

In 2007, Mr. Mehri was given the “Distinguished Visitor” Award by the Miami-Dade County Office of the Mayor and Board of County Commissioners at the Fritz Pollard Alliance’s Second Annual Salute to Excellence Program.

Mr. Mehri is a frequent guest on radio and TV and is guest columnist for Diversity, Inc.

Steven A. Skalet

Steven A. Skalet is a principal and managing partner in the firm of Mehri & Skalet, PLLC. Mr. Skalet is involved in all aspects of the firm's litigation practice--especially in the areas of consumer and financial fraud--and continues his real estate and finance practice. Mr. Skalet has over 35 years of litigation and transactional



experience in real estate, consumer fraud, bank fraud and class action litigation.

Mr. Skalet began his career with the Washington, D.C. firm of Melrod, Redman & Gartlan, where he worked on a number of American Civil Liberties Union cases, including a case granting women the right to employment with the U.S. Park Service as park police.

Mr. Skalet has had a varied litigation practice before state and federal courts throughout his career. From 1995 until the formation of M&S, Mr. Skalet practiced with Kass & Skalet, PLLC, a well-known real estate, litigation, complex business and consumer protection firm. Prior to that, he and another lawyer formed a practice that focused on real estate and litigation, including consumer class actions under the Truth-in-Lending and Equal Credit Opportunity acts. That firm grew to approximately 23 lawyers in 3 jurisdictions and, when it split up in 1995, was known as Kass, Skalet, Segan, Spevack & Van Grack, PLLC.

In 2001, Mr. Skalet and Cyrus Mehri started the firm of Mehri & Skalet, PLLC, concentrating in complex litigation and class actions. The firm has developed a varied and successful litigation practice in state and federal courts. Since its inception Mr. Skalet has been lead counsel or co-lead counsel in successful class action cases against Dell, Inc., Mercury Marine, Hewlett Packard, Sony, Ford, Verizon, Mitsubishi, Morgan Stanley, and many other companies.

Mr. Skalet has been an advisor to the Federal Reserve Board on credit and banking matters. He has served on the Montgomery County Advisory Committee reviewing the wholesale simplification of the Montgomery County Code. He also served on the District of Columbia Bar Committee responsible for drafting form commercial leases and the Montgomery County Board of Realtors committee responsible for drafting residential real estate contracts.

Mr. Skalet has actively participated in Community Associations Institute activities and was Chair of the District of Columbia Legislative Action Committee for many years. In 1999, and again in 2001, he was awarded the Public Advocate Award for his work on District of Columbia legislation. He is a frequent speaker and has



authored numerous articles pertaining to real estate and community associations.

Mr. Skalet graduated from the University of Pennsylvania School of Law in 1971 and the University of Rochester in 1968. He lives in Bethesda, Maryland with his wife, Linda, and has two grown sons.

Craig L. Briskin

Craig Briskin joined the Washington, D.C. office of Mehri & Skalet, PLLC as an associate in May 2007, and became a partner in 2009. He focuses his practice primarily on antitrust and consumer law.

Prior to joining the firm, Mr. Briskin prosecuted antitrust and commodities class actions at Labaton Sucharow LLP in New York. Among other matters, Mr. Briskin represented a class of natural gas futures traders who claimed damages resulting from defendant natural gas traders' manipulation of prices through false reporting to industry publications. Settlements with defendants, the last of which were approved in June 2007, were in excess of \$100 million. Mr. Briskin also represented consumers and third-party payers in several successful antitrust actions alleging that brand-name drugmakers blocked generic competition and charged supracompetitive prices for their products, through abuse of the patent system and sham litigation.

From 1999-2001, Mr. Briskin was an Equal Justice Works fellow at New York Legal Assistance Group. He represented indigent and primarily immigrant clients in welfare, disability and immigration matters, in administrative hearings, and in state and federal court.

Mr. Briskin graduated from Harvard College in 1994, and from Harvard Law School in 1998. Mr. Briskin served as a law clerk for Justice Alexander O. Bryner of the Alaska Supreme Court from 1998 to 1999. He is a member of the state bars of the District of Columbia, New York and Massachusetts, and is admitted to practice in the Southern and Eastern Districts of New York, the District of Columbia, and the Court of Appeals for the Ninth and District of Columbia Circuits. He serves as co-chair for the District of Columbia chapter of the National Association of Consumer Advocates.



Jay Angoff

Jay Angoff, who served as the first director of Affordable Care Act implementation at HHS and as Missouri Insurance Commissioner, is a partner at Mehri & Skalet. He heads the firm's insurance practice. Among the cases in which he has obtained refunds for consumers overcharged by insurers are *Landers v. Interinsurance Exchange of the Automobile Club* (LA County, Cal., \$24 million settlement), *Clutts v. Allstate* (Madison County, Ill., \$6 million settlement), and *Foundation for Taxpayer and Consumer Rights v. GEICO* (LA County, Cal., settlement valued at up to \$12 million.) He currently represents consumers challenging the practice of price optimization--charging policyholders based on their willingness to tolerate a price increase, rather than on the risk they present--by major auto insurers.

Mr. Angoff has also represented and advised state insurance departments in connection with proposed mergers and restructurings, including the Maryland, Pennsylvania, and Montana Departments and, currently, the Missouri Department. He also represents and advises both for-profit and non-profit organizations on ACA- and other insurance-related matters. In one such matter, on behalf of the St. Louis Effort for AIDS, he successfully challenged a Missouri statute which limited the ability of ACA-authorized consumer assistance organizations to help consumers obtain health insurance. In another, on behalf of the Consumers Council of Missouri, he successfully challenged HHS's refusal to make rate justifications public--so that consumers could comment on them, and regulators could consider them in ruling on the proposed increases--until after the increases took effect. After the lawsuit was filed, HHS agreed to make such justifications public.

At HHS Mr. Angoff's responsibilities included developing the new regulations governing the individual and small group markets, including the Patient's Bill of Rights, Medical Loss Ratio rule and Rate Review rule; implementing the Rate Review, Consumer Assistance and Exchange grant programs; and establishing the Early Retiree Reinsurance Program and Preexisting Condition Insurance Plan. Mr. Angoff also served at HHS as the Senior Advisor to the Secretary and as the HHS Regional Director for Region VII, headquartered in Kansas City.



Between 1993 and 1998 Mr. Angoff served as Director of the Missouri Department of Insurance. There he became one of the first Insurance Commissioners to order a traditionally non-profit Blue Cross plan to establish a healthcare foundation with the full value of its assets. He also helped implement an Exchange for state workers, which reduced their health insurance rates by up to 45%. And he established a competitive bidding process for workers compensation insurers that reduced workers comp rates by 24%. He also oversaw and accelerated the run-off of the Transit Casualty and Mission insolvencies, two of the largest and longest-running insurer insolvencies in the nation.

Prior to coming to Missouri, Mr. Angoff served as Deputy Insurance Commissioner of New Jersey and Special Assistant to the Governor for Health Insurance Policy. In those positions, he helped draft and implement New Jersey's individual and small group reform laws.

Mr. Angoff began his career as an antitrust lawyer with the Federal Trade Commission. He also served as a staff attorney for Congress Watch, a public interest lobbying organization, as counsel to the National Insurance Consumer Organization, and as Vice-President for Strategic Planning for Quotesmith.com (now insure.com), an internet quotation service and insurance broker. He has written for The New York Times, The Washington Post, and The Wall Street Journal, among other publications, and he is a frequent commentator on MSNBC and FOX News. He is a member of the District of Columbia, Missouri, New Jersey, and U.S. Supreme Court bars, and is a graduate of Oberlin College and Vanderbilt Law School.

Heidi Burakiewicz

Heidi Burakiewicz joined the Washington, D.C. office of Mehri & Skalet, PLLC in 2010. She focuses her practice primarily on cases brought pursuant to the Fair Labor Standards Act ("FLSA") and state wage and hour laws on behalf of employees who are required to perform work off-the-clock without compensation or who have been incorrectly told by their employers that they are exempt and are not entitled to time and one-half overtime compensation for working in excess of forty hours in a week. She is currently handling several cases brought pursuant to the Fair Labor



Standards Act (“FLSA”) on behalf of employees seeking unpaid wages and overtime compensation.

Since graduating from American University, Washington College of Law in 2000, Ms. Burakiewicz has represented employees and unions in collective/class action and multi-plaintiff suits before various federal courts as well as in arbitration. Of particular significance, she has collected over \$20 million dollars in backpay and liquidated damages from the United States government on behalf of employees who were required to perform work off-the-clock during their uncompensated meal breaks or who were required to perform work before and/or after their scheduled shifts such as picking-up equipment and walking to their job sites. Ms. Burakiewicz has also successfully handled cases against employers for violating free speech and association rights protected by the U.S. Constitution, including a case in which she successfully argued an appeal before the U.S. Court of Appeals for the Eighth Circuit, and for subjecting employees to sexual harassment and discrimination on the bases of race, sex, and disability.

N. Jeremi Duru

N. Jeremi Duru, a Professor of Law at American University’s Washington College of Law, serves as “of counsel” to Mehri & Skalet. Before entering academia, Professor Duru was an associate at Mehri & Skalet, where he represented plaintiffs’ interests in employment discrimination and other civil rights matters.

Much of Professor Duru’s work involved challenges to discriminatory employment practices in professional athletics. In recognition of this work, the National Bar Association honored Professor Duru with its 2005 Entertainment and Sports Lawyer of the Year award. Professor Duru has lectured and written extensively on sports law and employment law topics and, among other publications, is co-author of *Sports Law and Regulation: Cases, Materials, and Problems* (3d ed.) (Wolters Kluwer) and author of *Advancing the Ball: Race, Reformation, and the Quest for Equal Coaching Opportunity in the NFL* (Oxford University Press).

After receiving his undergraduate education at Brown University, Professor Duru completed a joint-degree program at Harvard University, receiving a Master’s



degree in Public Policy from the John F. Kennedy School of Government and a Juris Doctorate from Harvard Law School. He then served as a law clerk to the Honorable Damon J. Keith of the United States Court of Appeals for the Sixth Circuit.

Michael Lieder

For the previous 21 years, Mr. Lieder was of counsel, a partner, and a member of Sprenger + Lang, PLLC. At that firm, he generally served as lead counsel or in another leading role in employment discrimination, ERISA, wage and hour, and consumer class action litigation, including the following prominent cases:

- *In re TV Writers Cases*, No. 268836 et al. (Cal. Sup. Ct. (Los Angeles Cty.) 2011) (age discrimination class action);
- *Whitaker v. 3M Co.*, (Minn. Sup. Ct. (Ramsey Cty.) 2011) (age discrimination class action);
- *Seraphin v. SBC Internet Servs., Inc.*, No. CV 09-131-S-REB (D. Idaho 2011) (consumer class action);
- *Jarvaise v. RAND Corp.*, No. 1:96-CV-2680 (D.D.C. 2007) (gender discrimination class action);
- *Carlson v. C.H. Robinson Worldwide, Inc.*, No. CV-02-3780 (D. Minn. 2006) (gender discrimination class action);
- *Lucich v. New York Life Ins. Co.*, No. 01-1747 (S.D.N.Y. 2004) (ERISA pension benefits class action);
- *Franklin v. First Union Corp.*, Nos. 3:99cv344 and 610 (E.D. Va. 2001) (ERISA breach of fiduciary duty class action);
- *Thornton v. National Railroad Passenger Corp.*, No. 98-890 (D.D.C. 2000) (race discrimination class action);
- *McLaurin v. National Railroad Passenger Corp.*, No. 98-2019 (D.D.C. 1999) (race discrimination class action);
- *Hyman v. First Union Corporation*, No. 94-1043 (D.D.C. 1997) (age discrimination collective action);
- *Burns v. Control Data Corporation*, No. M.D. 4-96-41 (D. Minn. 1997) (age discrimination collective action);



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- *In Re: Maytag Corporation/Dixie Narco Plant Closing Litigation*, No. 92-C-417 (Jefferson County, West Virginia Circuit Court 1995) (breach of contract and fraud class action); and
 - *In re Pepco Employment Litigation*, No. 86-0603 (D.D.C. 1993) (race discrimination class action).

The settlements in many of the cases required comprehensive injunctive relief in addition to substantial payments to the class members. In the majority of these cases, Mr. Lieder worked closely with co-counsel from other firms.

During his time at Sprenger + Lang, Mr. Lieder became well known in the class action employment bar. In the last seven years alone, he has written papers and spoken at seminars and webinars concerning certification of employment discrimination class actions, the impact of Dukes on certification of employment discrimination class actions, statistical evidence in employment discrimination cases, mediation of employment discrimination cases, the Age Discrimination in Employment Act, Rule 23(f) review of class action certification decisions, ERISA litigation, and wage-and-hour litigation. He also has authored several amicus briefs to the Supreme Court and Courts of Appeal. In 2007, he was named one of "500 Leading Plaintiffs' Lawyers in America" by Lawdragon magazine, and in 2013, he was selected as a "Super Lawyer."

Mr. Lieder brought with him to Mehri & Skalet several cases initiated while he was at Sprenger & Lang, including a breach-of-contract, ERISA and age discrimination case against Allstate Insurance Company on behalf of over 6,200 insurance agents (if the class is certified) and two cases raising cutting edge consumer law issues. In addition, Mehri & Skalet quickly is integrating Mr. Lieder into its employment class action litigation practice.

Before beginning work at Sprenger + Lang in 1991, Mr. Lieder graduated magna cum laude from Georgetown University Law Center, where he was a Notes and Comments editor on the Georgetown Law Journal, worked for six years as an associate at the Madison, Wisconsin office of Foley & Lardner LLP, and served as a



visiting assistant professor for a year at the University of Toledo College of Law.

Mr. Lieder is also an accomplished author with wide-ranging interests. He co-authored a book, *Wild Justice: The People of Geronimo vs. the United States*, published by Random House in 1997, which was favorably reviewed by the New York Times and the Washington Post, among other leading publications.

In April 2013, Mr. Lieder co-authored an article about successfully pursuing employment justice in the wake of Wal-Mart v. Dukes, which significantly heightened requirements for class actions. The article, "Onward and Upward after Wal-Mart v. Dukes," was co-authored with M&S's Cyrus Mehri.

Mr. Lieder also wrote or co-authored five pieces published in various law journals:

- Class Actions Under ERISA, 10 Employee Rights & Employment Policy J. 665 (2006);
- Navajo Dispute Resolution and Promissory Obligations: Continuity & Change in the Largest Native American Nation, 18 Amer. Ind. L. Rev. 1 (1992);
- Constructing a New Action for Negligent Infliction of Economic Loss: Building on Cardozo & Coase, 66 Wash. L. Rev. 937 (1991);
- Religious Pluralism and Education in Historical Perspective: A Critique of the Supreme Court's Establishment Clause Jurisprudence, 22 Wake Forest L. Rev. 813 (1987); and
- Adjudication of Indian Water Rights Under the McCarran Amendment: Two Courts Are Better Than One, 71 Geo. L.J. 1023 (1983).

Mr. Lieder has a wonderful wife and son who help to keep him enthusiastic and energetic about his life and legal career. He is looking forward to new challenges at Mehri & Skalet.

Richard Condit

Richard Condit became "of counsel" to Mehri & Skalet in 2015. He heads the firm's Whistleblower Law practice, including cases involving whistleblower retaliation, disclosures to the SEC and other federal agencies, and false claims or



fraud against the government or its contractors. Mr. Condit has over 25 years of experience working with whistleblowers of diverse backgrounds in a wide variety of industries, representing lawyers, doctors, bank executives, firefighters, social workers, police officers, engineers, and laborers. The subject matter of the issues raised by whistleblowers Mr. Condit has worked with are equally diverse, covering such problems as fraud against the government, nuclear safety, environmental protection, bank fraud, food safety, mortgage fraud, securities law or regulatory violations, public transit safety, and many others.

Prior to joining the firm, Mr. Condit worked at the Government Accountability Project (GAP) for eight years (1987-1995) before rejoining the organization in 2007. In his first stint at GAP, Mr. Condit helped develop the organization's environmental whistleblower and citizen enforcement programs. After returning to GAP in 2007, Mr. Condit served as Senior Counsel, leading the organization's in-house litigation of whistleblower and open government cases.

Mr. Condit has also spent time in Colorado as the Legal/Toxics Director of the Land and Water Fund of the Rockies (now Western Resource Advocates), and more than five years as Counsel to the Chemical Weapons Working Group (CWWG), which led an international effort to require the U.S. Army to safely dispose of stockpiled chemical warfare agents. As General Counsel for Public Employees for Environmental Responsibility (PEER), Mr. Condit led the group's whistleblower litigation efforts.

Mr. Condit is an adjunct faculty member of the University of the District of Columbia David A. Clarke School of Law. For the past seven years, he has taught Whistleblower Law and Practice in the classroom and through the school's highly regarded clinical program.

A licensed attorney in the District of Columbia, Mr. Condit is also admitted to practice before the U.S. Supreme Court, U.S. District Courts for the District of Columbia, District of Colorado, and Southern District of Indiana. He has appeared before U.S. Courts of Appeal in numerous circuits. Mr. Condit regularly practices before the U.S. Department of Labor and has presented whistleblower cases to the

U.S. Office of Special Counsel and U.S. Merit Systems Protection Board. He has also been permitted to practice pro hac vice before other federal and state courts and agencies.

Mr. Condit graduated with a Bachelor of Science from the New Jersey Institute of Technology (1980), and received his Juris Doctorate from the Antioch School of Law (1986).

Stephanie J. Bryant

Stephanie J. Bryant joined Mehri & Skalet in November 2013 as an Associate Attorney. Her work focuses in civil rights litigation and Fair Labor Standards Act violations.

Prior to joining Mehri & Skalet, Ms. Bryant was an attorney with Clifford & Garde, LLP in Washington, DC. She handled employment cases under Title VII, the Family and Medical Leave Act, Americans with Disabilities Act, DC Human Rights Act, and whistleblower retaliation statutes in state and federal courts, and before federal agencies. She also handled general civil litigation, temporary restraining orders, and SEC civil litigation.

Ms. Bryant is a 2007 graduate of Case Western Reserve University School of Law. Prior to law school, Ms. Bryant worked as a Conditional Release Specialist for the Department of Corrections in Milwaukee, WI. She graduated from Marquette University with Bachelor's degrees in Criminology and Political Science.

Ms. Bryant is licensed to practice in the District of Columbia and Pennsylvania, as well as in the US District Court for the District of Columbia. She is a member of the National Employment Lawyers Association, Metropolitan Washington Employment Lawyers Association, DC Bar Association, and is an Employment Law Mentor for the DC Bar Advice & Referral Clinic.

Pia Winston

Pia Winston joined Mehri & Skalet as a Find Justice Fellow in February 2013. Her work focuses on the civil rights, wage and hour, and consumer protection aspects



of the firm's practice.

Before joining Mehri & Skalet as the Find Justice Fellow, Ms. Winston served as a law clerk for the National Consumer Law Center (NCLC). She also completed a fellowship with the National Whistleblower Center where she advocated for the rights of whistleblowers and litigated cases involving employee retaliation within the federal government.

Ms. Winston graduated from William & Mary Law School in 2012. While in law school she served on the William & Mary Journal of Women and the Law and served as National Parliamentarian for the National Black Law Students Association. Ms. Winston also competed in national competitions in criminal and employment law as a member of the W&M National Trial Team and Alternative Dispute Resolution Team.

Prior to attending law school, Ms. Winston graduated with honors from the University of California, Berkeley with a B.A. in African American Studies and Anthropology. She is licensed to practice in Maryland and Washington, D.C.

Joanna Wasik

Joanna Wasik joined Mehri & Skalet in 2015 as an Associate Attorney. Her work focuses on the civil rights, consumer protection, and wage and hour aspects of the firm's practice.

Prior to joining Mehri & Skalet, Ms. Wasik served as law clerk to Judge J. Curtis Joyner on the U.S. District Court for the Eastern District of Pennsylvania, and worked as an Associate at Freshfields, Bruckhaus, Deringer US LLP. At Freshfields, Ms. Wasik worked in the firm's global investigations and commercial litigation groups, and her pro bono work focused on prisoners' civil rights.

Ms. Wasik graduated magna cum laude from Georgetown Law in 2012. While in law school she served as a Managing Editor of the Georgetown Journal of International Law, a Legal Research and Writing Fellow, and a Global Law Scholar. She was also a member of the Georgetown Human Rights Institute's Fact-Finding Mission in 2010-2011.



Prior to attending law school, Ms. Wasik graduated magna cum laude from Amherst College, with a B.A. in political science.

Robert DePriest

Robert DePriest joined Mehri & Skalet as an Associate Attorney in August 2015. His work focuses on civil rights litigation and Fair Labor Standards Act violations. Prior to joining the firm, Mr. DePriest worked as an attorney with The Brownell Law Firm, PC, where he defended federal employees in investigations, professional responsibility matters, and disciplinary actions. He has represented clients before federal agencies, the U.S. Merit Systems Protection Board, Equal Employment Opportunity Commission, and Court of Appeals for the Federal Circuit.

Mr. DePriest graduated from The George Washington University Law School in 2009, where he was president of the Native American Law Students Association and Phi Alpha Delta Law Fraternity. He received an undergraduate degree in history from Vanderbilt University in 2006.

Mr. DePriest is licensed to practice in the District of Columbia and New York. He lives in Washington, DC, with his wife and daughter, and serves on the board of directors of the Foggy Bottom Association.

Brett Watson

Brett Watson joined Mehri & Skalet in 2015 as a Find Justice Fellow. His work focuses on the civil rights, wage and hour, and consumer rights areas of the firm's practice.

Before joining Mehri & Skalet, Mr. Watson was the Disability Rights Fellow at Brown, Goldstein & Levy LLP in Baltimore. His practice there included all areas of civil litigation with a particular focus on disability and other civil rights, as well as criminal defense.

Mr. Watson graduated from Northeastern University School of Law in 2013. During law school, he completed several internships as part of Northeastern's cooperative legal education program. Mr. Watson interned at the Washington Lawyers' Committee for Civil Rights and Urban Affairs as well as Cohen Milstein



Sellers & Toll PLLC, both in Washington, DC. He also completed a judicial internship for the Honorable Norman H. Stahl, U.S. Court of Appeals for the First Circuit. Prior to law school, Brett was a Field Representative for U.S. Representative Tammy Baldwin, for whom he served as a congressional liaison to constituent organizations and local government officials in his home state of Wisconsin.

Amelia Friedman

Amelia Friedman joined Mehri & Skalet in September 2015 as a Find Justice Fellow. Her work focuses on the civil rights, employment discrimination, wage and hour, insurance and healthcare, whistleblower, and consumer protection aspects of the firm's practice.

Prior to joining Mehri & Skalet, Ms. Friedman clerked for the Honorable Nancy F. Atlas on the U.S. District Court for the Southern District of Texas. She also completed a one-year fellowship with the Texas Title Project assisting low income homeowners obtain housing relief through the Hurricane Ike and Dolly Round 2.2 Disaster Recovery Housing Program.

Ms. Friedman graduated with High Honors from The University of Texas School of Law in 2013. During law school, she was a Public Service Scholar with the William Wayne Justice Center for Public Interest Law and served as Administrative Editor of the Texas Law Review.

Before attending law school, Ms. Friedman graduated from the University of Auckland, in Auckland, New Zealand, with a B.A. Honours in Political Studies and a B.A. double majoring in Political Studies and Film, TV & Media Studies.

Ms. Friedman is a member of the Texas bar.



Attachment B

Fee Schedule

Years	Hourly Rate
20 th +	\$795
11 th -19 th	\$660
8 th -10 th	\$585
4 th -7 th	\$405
1 st -3 rd	\$330
Paralegals/Law Clerks	\$180

Attachment C

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Slip Listing 2015

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 Selection Criteria

Slip.Transaction Dat Earliest - 6/22/2016
 Slip.Slip Type Time
 Clie.Selection Include: DL vs District of Columbia
 Slip.Billing Status Billable

Rate Info - identifies rate source and level

Slip ID	Timekeeper	Units	Rate	Slip Value
Dates and Time	Activity	DNB Time	Rate Info	
Posting Status	Client	Est. Time	Bill Status	
Description	Reference	Variance		
216921 TIME	CBM	1.00	795.00	795.00
7/12/2012	Investigation -	0.00	T@19	
WIP	DL vs District of Colum	0.00		
Meeting with Ehsan and Jane regarding schedule/amicus briefs.		0.00		
218164 TIME	CBM	0.20	795.00	159.00
8/23/2012	Court Hearings	0.00	T@19	
WIP	DL vs District of Colum	0.00		
Review e-mails by Jane regarding AARP; compose and send e-mail to AARP regarding amicus in defense of Judge Lamberth's decision.		0.00		
218881 TIME	CBM	0.10	795.00	79.50
9/5/2012	Case Management	0.00	T@19	
WIP	DL vs District of Colum	0.00		
Various e-mails to and from AARP.		0.00		
218909 TIME	CBM	0.10	795.00	79.50
9/7/2012	Pleadings Briefs	0.00	T@19	
WIP	DL vs District of Colum	0.00		
Review, forward and respond to e-mails to AARP regarding amicus.		0.00		
220097 TIME	CBM	1.00	795.00	795.00
9/19/2012	Pleadings Briefs	0.00	T@19	
WIP	DL vs District of Colum	0.00		
Telephone call with co-counsel and AARP regarding Amicus briefing.		0.00		
220167 TIME	CBM	1.00	795.00	795.00
9/27/2012	Pleadings Briefs	0.00	T@19	
WIP	DL vs District of Colum	0.00		
Read draft brief; telephone call to J. Liu.		0.00		
220933 TIME	CBM	0.90	795.00	715.50
10/1/2012	Pleadings Briefs	0.00	T@19	
WIP	DL vs District of Colum	0.00		
Read drafts of appellate court brief; telephone call with Jane Liu; email Jane Liu.		0.00		

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Slip ID	Timekeeper	Units	Rate	Slip Value
Dates and Time	Activity	DNB Time	Rate Info	
Posting Status	Client	Est. Time	Bill Status	
Description	Reference	Variance		
230794	CBM	1.00	795.00	795.00
1/7/2013	Case Management	0.00	T@19	
WIP	DL vs District of Colum	0.00		
Prepare for Court of Appeals Moot Court; review brief and lower court opinion		0.00		
230790	CBM	1.00	795.00	795.00
1/7/2013	Case Management	0.00	T@19	
WIP	DL vs District of Colum	0.00		
Review potential cases for Moot Court preparation; send same to Jane Liu		0.00		
230795	CBM	4.70	795.00	3736.50
1/8/2013	Communications	0.00	T@19	
WIP	DL vs District of Colum	0.00		
Prepare for class counsel call and Moot Court; participate in Moot Court		0.00		
230819	CBM	0.30	795.00	238.50
1/18/2013	Communications	0.00	T@19	
WIP	DL vs District of Colum	0.00		
Telephone call with Jane Liu; follow-up to Court of Appeals argument		0.00		
236172	CBM	0.20	795.00	159.00
4/5/2013	Communications	0.00	T@19	
WIP	DL vs District of Colum	0.00		
Review emails on correspondence to the Court of Appeals		0.00		
238361	CBM	1.50	795.00	1192.50
5/6/2013	Case Management	0.00	T@19	
WIP	DL vs District of Colum	0.00		
Meeting with Jane Liu regarding next steps in light of court of appeals decision; class definition and other legal and settlement issues.		0.00		
241193	CBM	0.20	795.00	159.00
5/15/2013	Case Strategy	0.00	T@19	
WIP	DL vs District of Colum	0.00		
Review and respond to email from co-counsel regarding class definition for new motion		0.00		
239183	CBM	0.70	795.00	556.50
5/21/2013	Settlement	0.00	T@19	
WIP	DL vs District of Colum	0.00		
Various telephone calls; e-mails with Jane Liu; discussion with Craig Briskin regarding Todd Kim; call Todd Kim to suggest settlement dialogue.		0.00		

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Slip ID	Timekeeper	Units	Rate	Slip Value
Dates and Time	Activity	DNB Time	Rate Info	
Posting Status	Client	Est. Time	Bill Status	
Description	Reference	Variance		
241232	CBM	0.40	795.00	318.00
5/28/2013	Case Management	0.00	T@19	
WIP	DL vs District of Colum	0.00		
Review new 9th Circuit opinion; forward same to Jane Liu		0.00		
241247	CBM	1.25	795.00	993.75
5/30/2013	Pleadings Briefs	0.00	T@19	
WIP	DL vs District of Colum	0.00		
Review and analyze draft class certification paper		0.00		
241253	CBM	1.50	795.00	1192.50
5/31/2013	Case Management	0.00	T@19	
WIP	DL vs District of Colum	0.00		
Discuss class certification motion, class definition and other issues with Jane Liu		0.00		
241698	CBM	0.20	795.00	159.00
6/4/2013	Case Management	0.00	T@19	
WIP	DL vs District of Colum	0.00		
Review Notice of Appearance; discussion with Ian Hawkins		0.00		
241727	CBM	1.60	795.00	1272.00
6/11/2013	Settlement	0.00	T@19	
WIP	DL vs District of Colum	0.00		
Telephone call with Chad-line attorney for City regarding process for settlement; telephone call; update with Jane Liu		0.00		
243210	CBM	0.50	795.00	397.50
6/27/2013	Settlement	0.00	T@19	
WIP	DL vs District of Colum	0.00		
Telephone call with D.C. Counsel regarding settlement process; email JAMS regarding same		0.00		
246351	CBM	0.20	795.00	159.00
8/8/2013	Settlement	0.00	T@19	
WIP	DL vs District of Colum	0.00		
Telephone call with Todd regarding outline for settlement details to present to City		0.00		
246352	CBM	1.00	795.00	795.00
8/8/2013	Case Management	0.00	T@19	
WIP	DL vs District of Colum	0.00		
Review draft brief; send information and comments regarding Whirlpool case and write up on Whirlpool to Jane Liu		0.00		
246544	CBM	0.30	795.00	238.50
8/12/2013	Pleadings Briefs	0.00	T@19	
WIP	DL vs District of Colum	0.00		

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Slip ID	Timekeeper	Units	Rate	Slip Value
Dates and Time	Activity	DNB Time	Rate Info	
Posting Status	Client	Est. Time	Bill Status	
Description	Reference	Variance		
Review and respond to case law questions from Jane Liu		0.00		
246556 TIME	CBM	0.30	795.00	238.50
8/14/2013	Case Management	0.00	T@19	
WIP	DL vs District of Colum	0.00		
Review District of Columbia Circuit Rail Freight/Supplemental Authority		0.00		
247368 TIME	CBM	0.10	795.00	79.50
9/3/2013	Settlement	0.00	T@19	
WIP	DL vs District of Colum	0.00		
Review emails regarding settlement; discuss with Todd Gluckman regarding same		0.00		
248513 TIME	CBM	0.20	795.00	159.00
9/6/2013	Settlement	0.00	T@19	
WIP	DL vs District of Colum	0.00		
Email exchange regarding settlement approach and possible terms; review settlement memo		0.00		
248890 TIME	CBM	1.00	795.00	795.00
9/10/2013	Settlement	0.00	T@19	
WIP	DL vs District of Colum	0.00		
Telephone call with Bruce and Todd Gluckman regarding communication around possibilities on settlement terms; telephone call with Chad Copeland regarding same		0.00		
249077 TIME	CBM	1.00	795.00	795.00
9/18/2013	Settlement	0.00	T@19	
WIP	DL vs District of Colum	0.00		
Telephone call with Chad Copeland regarding settlement update; update Jane Liu and Bruce Terris regarding same		0.00		
252840 TIME	CBM	1.00	795.00	795.00
11/6/2013	Case Management	0.00	T@19	
WIP	DL vs District of Colum	0.00		
Review L'Oreal decision; email Jane Liu		0.00		
252859 TIME	CBM	1.00	795.00	795.00
11/8/2013	Pleadings Briefs	0.00	T@19	
WIP	DL vs District of Colum	0.00		
Review Judge Lamberth's decision; review co-counsel emails		0.00		
252766 TIME	CBM	0.30	795.00	238.50
11/13/2013	Settlement	0.00	T@19	
WIP	DL vs District of Colum	0.00		
Telephone call with Todd Gluckman regarding settlement proposal to city.		0.00		

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Slip ID	Timekeeper	Units	Rate	Slip Value
Dates and Time	Activity	DNB Time	Rate Info	
Posting Status	Client	Est. Time	Bill Status	
Description	Reference	Variance		
252889	CBM	0.10	795.00	79.50
11/18/2013	Settlement	0.00	T@19	
WIP	DL vs District of Colum	0.00		
Telephone call with Chad Copeland at District of Columbia government regarding settlement meeting		0.00		
265212	CBM	0.30	795.00	238.50
4/14/2014	Communications	0.00	T@19	
WIP	DL vs District of Colum	0.00		
Call with Todd regarding settlement meeting with Chad; follow-up emails to and from Todd		0.00		
265884	CBM	0.10	795.00	79.50
4/15/2014	Settlement	0.00	T@19	
WIP	DL vs District of Colum	0.00		
Collect time records		0.00		
268215	CBM	0.10	795.00	79.50
4/18/2014	Settlement	0.00	T@19	
WIP	DL vs District of Colum	0.00		
Review/respond to email by Todd Gluckman on settlement		0.00		
268205	CBM	0.10	795.00	79.50
5/8/2014	Case Strategy	0.00	T@19	
WIP	DL vs District of Colum	0.00		
Review/respond to email regarding settlement		0.00		
324510	CBM	0.30	795.00	238.50
7/7/2015	Case Management	0.00	T@19	
WIP	DL vs District of Colum	0.00		
Review court orders email co-counsel		0.00		
Grand Total				
	Billable	26.75		21266.25
	Unbillable	0.00		0.00
	Total	26.75		21266.25

Databases, Tables & Calculators by Subject

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Consumer Price Index - All Urban Consumers

Series Id: CUUR0000SEGD01
Not Seasonally Adjusted
Area: U.S. city average
Item: Legal services
Base Period: DECEMBER 1986=100

Plaintiffs' Exhibit
22
Civ. No. 05-1437 (RCL)

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Year	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec	HALF1	HALF2
1986												100.0		
1987	101.0	101.8	102.2	102.5	102.9	103.3	103.9	104.1	104.4	104.8	105.2	105.2		
1988	105.6	106.1	106.7	106.8	106.9	107.1	107.9	108.3	108.5	108.8	109.3	109.9		
1989	111.1	111.7	111.6	112.2	112.7	114.6	115.0	115.5	116.1	116.2	115.9	116.8		
1990	117.7	118.2	120.4	120.9	123.4	123.7	123.8	123.8	124.4	124.8	124.8	124.8		
1991	126.2	126.3	128.1	128.7	129.0	129.2	130.3	130.6	131.6	131.5	131.5	131.9		
1992	134.7	135.8	136.4	135.9	135.6	135.8	136.1	136.1	136.7	137.1	137.2	137.2		
1993	137.7	138.1	137.8	138.5	142.9	143.3	143.5	143.7	143.9	144.0	144.9	145.1		
1994	145.5	145.7	146.1	146.3	146.3	146.7	146.8	146.8	146.9	147.9	148.2	147.9		
1995	148.3	150.5	150.0	150.7	151.2	151.4	152.4	152.5	152.7	153.1	153.3	153.5		
1996	153.5	153.7	155.0	156.0	157.3	157.4	158.0	158.3	158.6	158.6	159.3	159.3		
1997	159.7	160.1	160.7	161.0	161.5	164.0	163.8	166.5	166.5	167.2	167.4	167.5		
1998	168.6	169.9	170.2	170.5	171.1	171.2	171.3	171.9	172.9	173.8	174.0	174.6		
1999	175.7	177.3	178.2	178.6	179.6	179.6	180.0	180.9	181.5	182.3	182.5	183.5		
2000	184.9	185.6	186.0	187.8	188.7	189.1	190.2	191.0	191.5	192.2	192.5	192.6		
2001	193.4	194.7	195.5	196.1	196.6	196.8	199.5	203.0	203.2	204.8	204.9	205.1		
2002	207.0	208.6	209.7	209.7	210.9	211.1	211.2	211.8	212.3	212.7	213.7	213.9		
2003	216.1	218.8	221.1	221.2	221.4	221.8	222.0	222.3	223.1	223.6	224.5	224.6		
2004	226.5	228.4	230.3	231.1	231.5	231.9	232.5	233.6	234.3	234.8	235.6	236.6		
2005	238.5	238.3	239.3	239.5	242.1	241.8	243.0	243.2	243.4	243.5	243.8	244.6		
2006	246.0	246.6	247.4	247.1	247.8	248.0	249.4	252.1	252.1	253.6	254.5	255.5		
2007	255.961	256.503	258.069	259.058	260.499	260.772	260.822	261.368	262.509	262.493	262.315	262.910		
2008	266.221	266.634	267.350	268.828	270.892	271.236	271.852	272.776	272.583	272.583	272.946	274.810		
2009	275.818	275.836	276.071	276.042	276.357	277.162	276.868	277.024	277.608	282.107	283.443	283.418		
2010	284.964	285.617	286.287	286.638	286.189	286.509	287.176	289.018	290.862	290.796	290.889	292.614		
2011	294.975	295.771	295.663	296.150	296.530	296.585	296.416	298.623	299.429	298.706	299.800	300.480		
2012	301.013	300.865	301.696	301.859	302.998	304.234	303.017	303.978	304.011	305.880	305.976	306.049		
2013	306.202	309.892	310.386	310.395	310.244	311.652	311.908	314.108	314.021	314.979	313.736	314.281		
2014	315.758	317.364	318.334	318.769	317.820	318.963	318.925	319.115	319.095	319.485	319.485	318.795		
2015	319.390	319.613	320.198	321.015	321.825	321.793	323.086	324.413	327.485	327.557	328.393	327.925		
2016	326.621	326.680	326.714	327.114	331.779	333.681								

TOOLS

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Industries at a Glance
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Adjustments to the 1988-1989 *Laffey* Matrix Rates Using the Legal Services Index¹

Plaintiffs' Exhibit
23
 Civ. No. 05-1437 (RCL)

Years Out of Law School	06/01/88-05/31/89 ²	06/01/89-05/31/90	06/01/90-05/31/91	06/01/91-05/31/92	06/01/92-05/31/93	06/01/93-05/31/94	06/01/94-05/31/95	06/01/95-05/31/96	06/01/96-05/31/97	06/01/97-05/31/98
20th+	\$265	\$284	\$306	\$320	\$336	\$355	\$363	\$375	\$389	\$406
11th - 19th	\$220	\$235	\$254	\$265	\$279	\$294	\$301	\$311	\$323	\$337
8th - 10th	\$195	\$209	\$225	\$235	\$247	\$261	\$267	\$276	\$287	\$299
4th - 7th	\$135	\$144	\$156	\$163	\$171	\$181	\$185	\$191	\$198	\$207
1st - 3rd	\$110	\$118	\$127	\$133	\$139	\$147	\$151	\$155	\$162	\$168
Paralegal/Law Clerk	\$60	\$64	\$69	\$72	\$76	\$80	\$82	\$85	\$88	\$92
Adjustment Factor ³		1.070028	1.079406	1.044462	1.051083	1.055228	1.023726	1.032038	1.039630	1.041931

¹ *Laffey* refers to *Laffey v. Northwest Airlines*, 572 F. Supp. 354 (D.D.C. 1983), affirmed in part and reversed in part on other grounds, 746 F.2d 4 (D.C. Cir. 1984), overruled in part on other grounds, *Save Our Cumberland Mountains v. Hodel*, 857 F.2d 1516, 1525 (D.C. Cir. 1988)(en banc).

² The rates in this column represent the 1989 update to the *Laffey* matrix rates for Washington, D.C. See *Covington v. District of Columbia*, 839 F. Supp. 894, 904 (D.D.C. 1993).

³ The Adjustment Factor refers to the legal services component of the Consumer Price Index produced by the Bureau of Labor Statistics of the United States Department of Labor. Each Adjustment Factor is calculated by dividing the legal services component for June of the current year by the component for June of the previous year.

<i>Years Out of Law School</i>	<i>06/01/97-05/31/98⁴</i>	<i>06/01/98-05/31/99</i>	<i>06/01/99-05/31/00</i>	<i>06/01/00-05/31/01</i>	<i>06/01/01-05/31/02</i>	<i>06/01/02-05/31/03</i>	<i>06/01/03-05/31/04</i>	<i>06/01/04-05/31/05</i>	<i>06/01/05-05/31/06</i>	<i>06/01/06-05/31/07</i>
20th+	\$406	\$424	\$445	\$468	\$487	\$523	\$549	\$574	\$599	\$614
11th - 19th	\$337	\$352	\$369	\$389	\$404	\$434	\$456	\$477	\$497	\$510
8th - 10th	\$299	\$312	\$327	\$345	\$359	\$385	\$404	\$423	\$441	\$452
4th - 7th	\$207	\$216	\$227	\$239	\$248	\$266	\$280	\$293	\$305	\$313
1st - 3rd	\$168	\$175	\$184	\$194	\$202	\$216	\$227	\$238	\$248	\$254
Paralegal/Law Clerk	\$92	\$96	\$101	\$106	\$110	\$118	\$124	\$130	\$136	\$139
Adjustment Factor ³		1.043902	1.049065	1.052895	1.040719	1.072663	1.050687	1.045537	1.042691	1.025641

⁴Column repeated from previous page.

<i>Years Out of Law School</i>	<i>06/01/06-05/31/07^s</i>	<i>06/01/07-05/31/08</i>	<i>06/01/08-05/31/09</i>	<i>06/01/09-05/31/10</i>	<i>06/01/10-05/31/11</i>	<i>06/01/11-05/31/12</i>	<i>06/01/12-05/31/13</i>	<i>06/01/13-05/31/14</i>	<i>06/01/14-05/31/15</i>	<i>06/01/15-05/31/16</i>
20th+	\$614	\$646	\$672	\$686	\$709	\$734	\$753	\$772	\$790	\$797
11th - 19th	\$510	\$536	\$558	\$570	\$589	\$610	\$626	\$641	\$656	\$662
8th - 10th	\$452	\$475	\$494	\$505	\$522	\$541	\$554	\$568	\$581	\$586
4th - 7th	\$313	\$329	\$342	\$350	\$362	\$374	\$384	\$393	\$403	\$406
1st - 3rd	\$254	\$267	\$278	\$284	\$293	\$304	\$312	\$319	\$327	\$330
Paralegal/Law Clerk	\$139	\$146	\$152	\$155	\$161	\$166	\$171	\$175	\$179	\$180
Adjustment Factor ³		1.051500	1.040127	1.021848	1.033724	1.035168	1.025790	1.024383	1.023459	1.008873

⁵Column repeated from previous page.

<i>Years Out of Law School</i>	<i>06/01/15-05/31/16⁶</i>	<i>06/01/16-05/31/17</i>	<i>06/01/17-05/31/18</i>	<i>06/01/18-05/31/19</i>	<i>06/01/19-05/31/20</i>	<i>06/01/20-05/31/21</i>	<i>06/01/21-05/31/22</i>	<i>06/01/22-05/31/23</i>	<i>06/01/23-05/31/24</i>	<i>06/01/24-05/31/25</i>
20th+	\$797	\$826	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0
11th - 19th	\$662	\$686	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0
8th - 10th	\$586	\$608	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0
4th - 7th	\$406	\$421	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0
1st - 3rd	\$330	\$342	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0
Paralegal/Law Clerk	\$180	\$187	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0
Adjustment Factor ³		1.036943	0.000000	0.000000	0.000000	0.000000	0.000000	0.000000	0.000000	0.000000

⁶Column repeated from previous page.

USAO ATTORNEY'S FEES MATRIX – 2015 – 2017

Revised Methodology starting with 2015-2016 Year

Plaintiffs' Exhibit
24
Civ. No. 05-1437 (RCL)

Years (Hourly Rate for June 1 – May 31, based on change in PPI-OL since January 2011)

Experience	2015-16	2016-17
31+ years	568	581
21-30 years	530	543
16-20 years	504	516
11-15 years	455	465
8-10 years	386	395
6-7 years	332	339
4-5 years	325	332
2-3 years	315	322
Less than 2 years	284	291
Paralegals & Law Clerks	154	157

Explanatory Notes

1. This matrix of hourly rates for attorneys of varying experience levels and paralegals/law clerks has been prepared by the Civil Division of the United States Attorney's Office for the District of Columbia (USAO) to evaluate requests for attorney's fees in civil cases in District of Columbia courts. The matrix is intended for use in cases in which a fee-shifting statute permits the prevailing party to recover "reasonable" attorney's fees. *See, e.g.*, 42 U.S.C. § 2000e-5(k) (Title VII of the 1964 Civil Rights Act); 5 U.S.C. § 552(a)(4)(E) (Freedom of Information Act); 28 U.S.C. § 2412(b) (Equal Access to Justice Act). The matrix has not been adopted by the Department of Justice generally for use outside the District of Columbia, or by other Department of Justice components, or in other kinds of cases. The matrix does **not** apply to cases in which the hourly rate is limited by statute. *See* 28 U.S.C. § 2412(d).
2. A "reasonable fee" is a fee that is sufficient to attract an adequate supply of capable counsel for meritorious cases. *See, e.g., Perdue v. Kenny A. ex rel. Winn*, 559 U.S. 542, 552 (2010). Consistent with that definition, the hourly rates in the above matrix were calculated from average hourly rates reported in 2011 survey data for the D.C. metropolitan area, which rates were adjusted for inflation with the Producer Price Index-Office of Lawyers (PPI-OL) index. The survey data comes from ALM Legal Intelligence's 2010 & 2011 Survey of Law Firm Economics. The PPI-OL index is available at <http://www.bls.gov/ppi>. On that page, under "PPI Databases," and "Industry Data (Producer Price Index - PPI)," select either "one screen" or "multi-screen" and in the resulting window use "industry code" 541110 for "Offices of Lawyers" and "product code" 541110541110 for "Offices of Lawyers." The average hourly rates from the 2011 survey data are multiplied by the PPI-OL index for May in the year of the update, divided by 176.6, which is the PPI-OL index for January 2011, the month of the survey data, and then rounding to the nearest whole dollar (up if remainder is 50¢ or more).
3. The PPI-OL index has been adopted as the inflator for hourly rates because it better reflects the mix of legal services that law firms collectively offer, as opposed to the legal services that typical consumers use, which is what the CPI-

Legal Services index measures. Although it is a national index, and not a local one, *cf. Eley v. District of Columbia*, 793 F.3d 97, 102 (D.C. Cir. 2015) (noting criticism of national inflation index), the PPI-OL index has historically been generous relative to other possibly applicable inflation indexes, and so its use should minimize disputes about whether the inflator is sufficient.

4. The methodology used to compute the rates in this matrix replaces that used prior to 2015, which started with the matrix of hourly rates developed in *Laffey v. Northwest Airlines, Inc.* 572 F. Supp. 354 (D.D.C. 1983), *aff'd in part, rev'd in part on other grounds*, 746 F.2d 4 (D.C. Cir. 1984), *cert. denied*, 472 U.S. 1021 (1985), and then adjusted those rates based on the Consumer Price Index for All Urban Consumers (CPI-U) for the Washington-Baltimore (DC-MD-VA-WV) area. Because the USAO rates for the years 2014-15 and earlier have been generally accepted as reasonable by courts in the District of Columbia, see note 9 below, the USAO rates for those years will remain the same as previously published on the USAO's public website. That is, the USAO rates for years prior to and including 2014-15 remain based on the prior methodology, *i.e.*, the original *Laffey* Matrix updated by the CPI-U for the Washington-Baltimore area. See *Citizens for Responsibility & Ethics in Washington v. Dep't of Justice*, --- F. Supp. 3d ---, 2015 WL 6529371 (D.D.C. 2015) and Declaration of Dr. Laura A. Malowane filed therein on Sept. 22, 2015 (Civ. Action No. 12-1491, ECF No. 46-1) (confirming that the USAO rates for 2014-15 computed using prior methodology are reasonable).
5. Although the USAO will not issue recalculated *Laffey* Matrices for past years using the new methodology, it will not oppose the use of that methodology (if properly applied) to calculate reasonable attorney's fees under applicable fee-shifting statutes for periods prior to June 2015, provided that methodology is used consistently to calculate the entire fee amount. Similarly, although the USAO will no longer issue an updated *Laffey* Matrix computed using the prior methodology, it will not oppose the use of the prior methodology (if properly applied) to calculate reasonable attorney's fees under applicable fee-shifting statutes for periods after May 2015, provided that methodology is used consistently to calculate the entire fee amount.
6. The various "brackets" in the column headed "Experience" refer to the attorney's years of experience practicing law. Normally, an attorney's experience will be calculated starting from the attorney's graduation from law school. Thus, the "Less than 2 years" bracket is generally applicable to attorneys in their first and second years after graduation from law school, and the "2-3 years" bracket generally becomes applicable on the second anniversary of the attorney's graduation (*i.e.*, at the beginning of the third year following law school). See *Laffey*, 572 F. Supp. at 371. An adjustment may be necessary, however, if the attorney's admission to the bar was significantly delayed or the attorney did not otherwise follow a typical career progression. See, *e.g.*, *EPIC v. Dep't of Homeland Sec.*, 999 F. Supp. 2d 61, 70-71 (D.D.C. 2013) (attorney not admitted to bar compensated at "Paralegals & Law Clerks" rate); *EPIC v. Dep't of Homeland Sec.*, 982 F. Supp. 2d 56, 60-61 (D.D.C. 2013) (same). The various experience levels were selected by relying on the levels in the ALM Legal Intelligence 2011 survey data. Although finer gradations in experience level might yield different estimates of market rates, it is important to have statistically sufficient sample sizes for each experience level. The experience categories in the current USAO Matrix are based on statistically significant sample sizes for each experience level.
7. ALM Legal Intelligence's 2011 survey data does not include rates for paralegals and law clerks. Unless and until reliable survey data about actual paralegal/law clerk rates in the D.C. metropolitan area become available, the USAO will compute the hourly rate for Paralegals & Law Clerks using the most recent historical rate from the USAO's former *Laffey* Matrix (*i.e.*, \$150 for 2014-15) updated with the PPI-OL index. The formula is \$150 multiplied by the PPI-OL index for May in the year of the update, divided by 194.3 (the PPI-OL index for May 2014), and then rounding to the nearest whole dollar (up if remainder is 50¢ or more).
8. The USAO anticipates periodically revising the above matrix if more recent reliable survey data becomes available, especially data specific to the D.C. market, and in the interim years updating the most recent survey data with the PPI-OL index, or a comparable index for the District of Columbia if such a locality-specific index becomes available.
9. Use of an updated *Laffey* Matrix was implicitly endorsed by the Court of Appeals in *Save Our Cumberland Mountains v. Hodel*, 857 F.2d 1516, 1525 (D.C. Cir. 1988) (en banc). The Court of Appeals subsequently stated that parties may rely on the updated *Laffey* Matrix prepared by the USAO as evidence of prevailing market rates for litigation counsel in the Washington, D.C. area. See *Covington v. District of Columbia*, 57 F.3d 1101, 1105 & n.14, 1109 (D.C. Cir. 1995), *cert. denied*, 516 U.S. 1115 (1996). Most lower federal courts in the District of Columbia

have relied on the USAO Matrix, rather than the so-called “Salazar Matrix” (also known as the “LSI Matrix” or the “Enhanced Laffey Matrix”), as the “benchmark for reasonable fees” in this jurisdiction. *Miller v. Holzmann*, 575 F. Supp. 2d 2, 18 n.29 (D.D.C. 2008) (quoting *Pleasants v. Ridge*, 424 F. Supp. 2d 67, 71 n.2 (D.D.C. 2006)); *see, e.g., Joaquin v. Friendship Pub. Charter Sch.*, --- F. Supp. 3d ---, 2016 WL 3034151 (D.D.C. 2016); *Prunty v. Vivendi*, --- F. Supp. 3d ---, 2016 WL 3659889 (D.D.C. 2016); *CREW v. U.S. Dep’t of Justice*, --- F. Supp. 3d ---, 2015 WL 6529371 (D.D.C. 2015); *McAllister v. District of Columbia*, 21 F. Supp. 3d 94 (D.D.C. 2014); *Embassy of Fed. Republic of Nigeria v. Ugwuonye*, 297 F.R.D. 4, 15 (D.D.C. 2013); *Berke v. Bureau of Prisons*, 942 F. Supp. 2d 71, 77 (D.D.C. 2013); *Fisher v. Friendship Pub. Charter Sch.*, 880 F. Supp. 2d 149, 154-55 (D.D.C. 2012); *Sykes v. District of Columbia*, 870 F. Supp. 2d 86, 93-96 (D.D.C. 2012); *Heller v. District of Columbia*, 832 F. Supp. 2d 32, 40-49 (D.D.C. 2011); *Hayes v. D.C. Public Schools*, 815 F. Supp. 2d 134, 142-43 (D.D.C. 2011); *Queen Anne’s Conservation Ass’n v. Dep’t of State*, 800 F. Supp. 2d 195, 200-01 (D.D.C. 2011); *Woodland v. Viacom, Inc.*, 255 F.R.D. 278, 279-80 (D.D.C. 2008); *American Lands Alliance v. Norton*, 525 F. Supp. 2d 135, 148-50 (D.D.C. 2007). *But see, e.g., Salazar v. District of Columbia*, 123 F. Supp. 2d 8, 13-15 (D.D.C. 2000). The USAO contends that the Salazar Matrix is fundamentally flawed, does not use the Salazar Matrix to determine whether fee awards under fee-shifting statutes are reasonable, and will not consent to pay hourly rates calculated with the methodology on which that matrix is based.

Plaintiffs' Exhibit
25
Civ. No. 05-1437 (RCL)

LAFFEY MATRIX – 2014-2015

Years (Rate for June 1 – May 31, based on prior year's CPI-U)

Experience	14-15
20+ years	520
11-19 years	460
8-10 years	370
4-7 years	300
1-3 years	255
Paralegals & Law Clerks	150

Explanatory Notes:

1. This matrix of hourly rates for attorneys of varying experience levels and paralegals/law clerks has been prepared by the Civil Division of the United States Attorney's Office for the District of Columbia. The matrix is intended to be used in cases in which a "fee-shifting" statute permits the prevailing party to recover "reasonable" attorney's fees. *See, e.g.*, 42 U.S.C. § 2000e-5(k) (Title VII of the 1964 Civil Rights Act); 5 U.S.C. § 552(a)(4)(E) (Freedom of Information Act); 28 U.S.C. § 2412(b) (Equal Access to Justice Act). The matrix does **not** apply to cases in which the hourly rate is limited by statute. *See* 28 U.S.C. § 2412(d).
2. This matrix is based on the hourly rates allowed in *Laffey v. Northwest Airlines, Inc.*, 572 F. Supp. 354 (D.D.C. 1983), *aff'd in part, rev'd in part on other grounds*, 746 F.2d 4 (D.C. Cir. 1984), *cert. denied*, 472 U.S. 1021 (1985). It is commonly referred to by attorneys and federal judges in the District of Columbia as the "Laffey Matrix" or the "United States Attorney's Office Matrix." The various "brackets" in the column headed "Experience" refer to the years following the attorney's graduation from law school, and are intended to correspond to "junior associates" (1-3 years after law school graduation), "senior associates" (4-7 years), "experienced federal court litigators" (8-10 and 11-19 years), and "very experienced federal court litigators" (20 years or more). Thus, the "1-3 years" bracket is generally applicable to attorneys in their first, second, and third years after graduation from law school, and the "4-7 years" bracket generally becomes applicable on the third anniversary of the attorney's graduation (*i.e.*, at the beginning of the fourth year following law school). *See Laffey*, 572 F. Supp. at 371; *but cf. EPIC v. Dep't of Homeland Sec.*, No. 11-2261, ___ F. Supp. 2d ___, 2013 WL 6047561, *6 -*7 (D.D.C. Nov. 15, 2013) (attorney not admitted to bar compensated at "Paralegals & Law Clerks" rate); *EPIC v. Dep't of Homeland Sec.*, 982 F. Supp.2d 56, 60-61 (D.D.C. 2013) (same).
3. The hourly rates approved in *Laffey* were for work done principally in 1981-82. The matrix begins with those rates. *See Laffey*, 572 F. Supp. at 371 (attorney rates) & 386 n.74 (paralegal and law clerk rate). The rates for subsequent yearly periods were determined by adding the change in the cost of living for the Washington, D.C. area to the applicable rate for the prior year, and then rounding to the nearest multiple of \$5 (up if within \$3 of the next multiple of \$5). The result is subject to adjustment if appropriate to ensure that the relationship between the highest rate and the lower rates remains reasonably constant. Changes in the cost of living are measured by the Consumer Price Index for All Urban Consumers (CPI-U) for Washington-Baltimore, DC-MD-VA-WV, as announced by the Bureau of Labor Statistics for May of each year.
4. Use of an updated Laffey Matrix was implicitly endorsed by the Court of Appeals in *Save Our Cumberland Mountains v. Hodel*, 857 F.2d 1516, 1525 (D.C. Cir. 1988) (en banc). The Court of Appeals subsequently stated that parties may rely on the updated *Laffey* Matrix prepared by the United States Attorney's Office as evidence of

prevailing market rates for litigation counsel in the Washington, D.C. area. *See Covington v. District of Columbia*, 57 F.3d 1101, 1105 & n.14, 1109 (D.C. Cir. 1995), *cert. denied*, 516 U.S. 1115 (1996). Most lower federal courts in the District of Columbia have relied on the United States Attorney's Office Matrix, rather than the so-called "Updated Laffey Matrix," as the "benchmark for reasonable fees" in this jurisdiction. *Miller v. Holzmann*, 575 F. Supp. 2d 2, 18 n.29 (D.D.C. 2008) (quoting *Pleasants v. Ridge*, 424 F. Supp. 2d 67, 71 n.2 (D.D.C. 2006)); *see, e.g., Berke v. Bureau of Prisons*, 942 F. Supp. 2d 71, 77 (D.D.C. 2013); *Heller v. District of Columbia*, 832 F. Supp. 2d 32, 40-49 (D.D.C. 2011); *American Lands Alliance v. Norton*, 525 F. Supp. 2d 135, 150 (D.D.C. 2007). *But see Salazar v. District of Columbia*, 123 F. Supp. 2d 8, 14-15 (D.D.C. 2000). The United States Attorney's Office does not use the "Updated Laffey Matrix" to determine whether fee awards under fee shifting statutes are reasonable.

ALM Survey, I was informed by the library staff that after making a staff inquiry, the library deems the 2011 ALM Survey to be lost. I reviewed the 2010 ALM Survey and made copies of selected pages. Plaintiffs' Exhibit 38 is an excerpt from the 2010 ALM Survey.

3. In addition to the Supreme Court library, we were informed that the surveys are available at the Department of Justice and Williams & Connolly libraries. We have requested access to the surveys at each of these libraries, but have been informed by each library that it does not permit public access. Each library also informed us that it does not have either survey.

4. On July 13, 2016, plaintiffs submitted a FOIA request to the Department of Justice seeking the 2010 and 2011 ALM Surveys referenced in the USAO Matrix 2015-2017. To date, despite inquiries, plaintiffs have neither received a response to the FOIA request, nor received the surveys from the District.

Pursuant to 28 U.S.C. 1746, I do declare under penalty of perjury that the foregoing is true and correct. Executed on September 23, 2016.

/s/ Carolyn Smith Pravlik

Carolyn Smith Pravlik

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

Plaintiffs' Exhibit
27
Civ. No. 05-1437 (RCL)

DL,¹ *et al.*, on behalf of themselves)
and all others similarly situated,)
)
) Plaintiffs,)
)
) v.)
)
) THE DISTRICT OF COLUMBIA,)
) *et al.*,)
) Defendants.)
_____)

Civil Action No. 05-1437 (RCL)

DECLARATION OF MICHAEL KAVANAUGH

Michael Kavanaugh affirms and states:

1. My name is Michael Kavanaugh. I am an economist in private practice at 19-4231 Road E, PO Box 1228, Volcano Hawaii, 96785.
2. I hold a Ph.D. in economics from the University of Cincinnati (1975) and a BA in economics from Xavier University (1970). I have taught economics at the University of Cincinnati and at Northern Kentucky University. For over 35 years, I have worked as an economist for a variety of clients including the U.S. Department of Justice, the U.S. Environmental Protection Agency, the U.S. Department of the Interior, the States of Ohio, California, and Alaska, citizen groups, and private industry. I have been qualified as an expert in Federal court in financial and economic matters many times. Attachment 1 is a copy of my resume with a listing of sworn federal testimony in the last five years and all publications published in the last ten years.
3. In 1983, the plaintiffs in *Laffey v. Northwest Airlines, Inc.*, 572 F. Supp. 354 (D.D.C. 1983), affirmed in part, reversed in part on other grounds, 746 F.2d 4 (D.C. Cir. 1984), cert.

¹ Pursuant to Local Rule 5.4(f)(2), minors are identified by their initials.

denied, 472 U.S. 1021 (1985), overruled in part on other grounds, *Save Our Cumberland Mountains v. Hodel*, 857 F.2d 1516 (D.C. Cir. 1988)(*en banc*) sought an award of attorneys' fees under the applicable law. Those plaintiffs collected information on the hourly billing rates charged to fee-paying clients in 1981-1982 in Washington, D.C., by attorneys engaged in complex federal litigation and created a composite of those rates, which has become known as the *Laffey Matrix*. The 1981-1982 *Laffey Matrix* was updated to 1988-1989 rates with a new survey in connection with the *Save Our Cumberland Mountains v. Hodel*, 857 F.2d 1516 (D.C. Cir. 1988)(*en banc*) litigation at the urging of the D.C. Circuit. See Declaration of Joseph A. Yablonski, Pl. Ex. 33.

4. The *Laffey Matrix* has been updated over the years using two different price indices. The first uses a component of the Consumer Price Index (CPI) known as the Legal Services Index (LSI).² I use this index.³ The second uses the All-Items Regional CPI for metropolitan Washington, D.C. Until 2015, the United States Attorney's Office (USAO) used the All-Items Regional CPI to update the *Laffey Matrix*. I refer to the former as the LSI *Laffey Matrix* and the latter as the USAO *Laffey Matrix*.⁴
5. Beginning in the period 2015-2016, the USAO adopted a new matrix that is not based on a sample of rates for performing complex federal litigation. I refer to the new USAO matrix as the USAO Matrix 2015-2017.⁵ The USAO Matrix 2015-2017 uses the Producer Price Index-Offices of Lawyers (PPI-OL) index for adjustment purposes.⁶ I

² Consumer Price Index for U.S. City Average, Legal Services.

³ The *Laffey matrix* updated using the LSI is set forth in Plaintiffs' Exhibit 23.

⁴ These are the labels used by the Court of Appeals for the D.C. Circuit in its two 2015 decisions addressing the two matrices. *Salazar v. District of Columbia*, 809 F.3d 58 (D.C. Cir. 2015)(*"Salazar V"*); *Eley v. District of Columbia*, 793 F.3d 97 (D.C. Cir. 2015).

⁵ The USAO Matrix 2015-2017 provides rates for two rate periods, 2015-2016 and 2016-2017.

⁶ See: <https://www.justice.gov/usao-dc/file/796471/download> Explanatory Note #2.

discuss the USAO Matrix 2015-2017 and PPI-OL below.

6. The first time I offered an opinion on the appropriate method for updating the *Laffey* Matrix was in a 1996 affidavit that the plaintiffs submitted in *Salazar v. District of Columbia*, 123 F. Supp. 2d 8 (D.D.C. 2000), in support of their first application for attorneys' fees. I opined that using the LSI was the appropriate method for updating the *Laffey* Matrix. I continue to hold that opinion today. The Court explicitly adopted my analysis in its decision. See *Salazar v. District of Columbia*, 123 F. Supp. 2d 8 (D.D.C. 2000) ("*Salazar I*").
7. Since then, I have prepared declarations/affidavits on the same topic in several other cases. Although I do not maintain a complete list of all my work, I do know my analysis was adopted in the following decisions: *Salazar v. District of Columbia*, 991 F. Supp. 2d 39 (D.D.C. 2014) ("*Salazar III*"), affirmed, 809 F. 3d 58 (D.C. Cir. 2015) ("*Salazar V*"); *Salazar v. District of Columbia*, 30 F. Supp. 3d 47 (D.D.C. 2014) ("*Salazar IV*"), affirmed, 809 F. 3d 58 (D.C. Cir. 2015) ("*Salazar V*"); *Eley v. District of Columbia*, 999 F. Supp. 2d 137 (D.D.C. 2013), reversed on other grounds, 793 F.3d 97 (D.C. Cir. 2015); *Hash v. United States of America* 1:99-CV-00324-MNW, 2012 WL 1252624, at *22 (D. Idaho Apr. 13, 2012); *Salazar v. District of Columbia*, 750 F. Supp. 2d 70 (D.D.C. 2011) ("*Salazar II*"); *Interfaith Community Organization v. Honeywell*, 336 F. Supp. 2d 370 (D.N.J. 2004), affirmed, 426 F. 3d 694 (3d Cir. 2005); *PIRG v. Magnesium Elecktron, Inc.*, 1995 WL 866983, *2, 10 (D.N.J. Dec. 28, 1995), vacated on other grounds, 123 F.3d 111 (3d Cir. 1997).
8. Plaintiffs' counsel asked me to compare the LSI index with the PPI-OL index and to address the USAO Matrix 2015-2017. My opinions are stated to a reasonable degree of certainty under the standards of my profession.
9. As discussed in more detail below, indices observe the prices of selected goods and services over time and create

an index. This allows calculation of the rate of price change over various time intervals for the goods and services represented by the sample. Once the rates of price change are established they may be used to make statements about the cost of living or to adjust past market prices to estimate prevailing market prices.

10. There are two bases for distinguishing among the LSI, PPI-OL and the All-Items Regional CPI. They are: (1) the specific goods and services included in each index, and (2) the geographic reach of the sample.
11. All-item consumer price indices, including the All-Items Regional CPI, combine the price changes of over one hundred thousand (100,000) commodities into a single index value to measure the rate of price change in the overall cost of living for consumers. In my opinion it is far better to update the *Laffey* survey of billing rates using an index specific to legal services rather than a broad index, such as the All-Items Regional CPI, because the latter contains components that are not relevant to the market for legal services.
12. Both the LSI and the PPI-OL measure the fees charged for providing specific legal services. These services include, *inter alia*, preparing a brief, attending a deposition and representing parties in civil proceedings. These are services provided in complex federal litigation. Just as a national CPI does not include all items in the U.S. economy, neither the LSI nor the PPI-OL includes the fees charged for every possible service rendered by lawyers.⁷ The size and complexity of the U.S. economy and the practice of law makes impossible the inclusion of every price in the economy or every service provided in a law

⁷ The LSI and the PPI-OL data are the billing rates for legal services performed on behalf of individuals, households, non-profits and businesses, including proprietors, partnerships and corporations. There are slight differences between the two indices in the sampling used to measure the rate of change in the price of legal services. These differences are not relevant here. For example, the PPI-OL index is evolving and may begin to reflect changes in product demand and the industry's use of technology.

practice in an index.⁸

13. The use of an index specific to legal services is more likely to reflect the rate of change in the prevailing billing rates for legal services than a general consumer price index. A general CPI -- whether national, regional, or local -- includes items that are not relevant to the market for legal services. These other items, such as housing and transportation, are given much more weight than legal services. When an All-Items CPI is applied to the billing rates in the *Laffey* Matrix, this obfuscates the rate of price change of legal services.
14. In my opinion, resource mobility and low-cost communication combine to make the market for legal services in complex federal litigation in Washington, D.C., a national market not a local market. Therefore, it would be more appropriate to use the LSI or the PPI-OL, which capture supply and demand factors particular to the legal services markets nationally and not the All-Items Regional CPI, which captures local price changes of over 100,000 items.
15. In other words, Washington, D.C., area law firms *compete* with law firms in other areas such as New York, Philadelphia, Chicago, Dallas, and San Francisco. Plaintiffs' legal market experts, Michael Downey and Bruce MacEwen, agree that the Washington, D.C., market for complex federal litigation is a national market. Pl. Exs. 28-29. The geographic extent of the market for complex legal services provides another reason why the LSI or the PPI-OL produces adjusted rates that are more reflective of the marketplace than the All Items Regional CPI. They more accurately reflect the conditions of competition in the

⁸ It is common practice in economics to make prices for part of an industry stand for prices in the whole industry. This is what the Department of Commerce does when it prepares estimates of an industry's contribution to gross domestic product (GDP). For example, when measurements of the legal industry's contribution to the output of the nation are made, the legal services component of the Consumer Price Index is used; when the contribution to GDP of all physicians' services is calculated, the medical care services component of the Consumer Price Index is used; and when the contributions to GDP of radio, or TV, or air conditioning repair services are calculated, the specific component indices of the Consumer Price Index are used.

Washington, D.C., marketplace.

16. Since Washington, D.C., firms compete in a national market, their rates must be competitive. Since their rates must be competitive, the rate of change in their rates is also likely to be similar.
17. The USAO is now using the PPI-OL instead of the All-Item Regional CPI to adjust for the passage of time. So, I compared the LSI with the PPI-OL. As discussed above, both the LSI and the PPI-OL measure a national rate of change of prices for legal services. The Bureau of Labor Statistics has maintained the LSI since 1987 and the PPI-OL since 1997. For the years they have in common, these two indices report comparable rates of price change for legal services.⁹ This means that when the same hourly rate is adjusted with the LSI compared to the PPI-OL, the resulting LSI hourly rate is about the same as the PPI-OL.
18. Although both indices are for legal services and are national in scope, characteristics which are important to updating the *Laffey Matrix*, I prefer the LSI over the PPI-OL to adjust the *Laffey Matrix*. The adjustment for the passage of time needs to run from 1989 to present. However, the PPI-OL does not run from 1989 to present. The first full year of index values for the PPI-OL is 1997 and 1998 is the first year an annual price change can be observed (e.g. June 1997 to June 1998). This means that in order to adjust the *Laffey Matrix*, the LSI must be used for the period from 1989 through 1998 and the PPI-OL used to continue from 1998 to present. Unless there is a material difference in using different price indexes to adjust for the passage of time, it is a better practice to adjust values using a single index rather than to switch indices when adjusting for the passage of time.

⁹ Attachment 2 shows the annual adjustment for the LSI and for the PPI-OL since 1997. The adjustment is the value by which the sample or baseline hourly rate is multiplied each year to produce the updated rate. The adjustment is calculated by dividing the index value for June of the current year by the value for June of the previous year. This is the rate of price change from one year to the next. Attachment 2 also shows the difference in the adjustment between the two indices. The PPI-OL adjustment exceeds the LSI adjustment in twelve of the nineteen years.

19. In *Heller v. District of Columbia*, 832 F. Supp. 2d 32 (2011), the Court adopted the USAO *Laffey* Matrix over the LSI *Laffey* Matrix based on an assumption that the LSI update represents large law firms and the attorneys who represented the plaintiffs were from small law firms.
20. Market prices for a specific good or service cannot be expected to vary by firm size. A barrel of oil sells for the same price whether it is produced by a small well in Eastern Ohio or the world's largest well in Saudi Arabia. The auto market is not divided into a large automaker market and a small automaker market. Regardless of size automakers compete against each other in the marketplace. The same is true of law firms. Small, medium and large firms compete with one another for clients in the complex federal litigation market. From that competition a market price emerges.¹⁰
21. When the USAO created its new matrix it not only changed the price index (it switched to the PPI-OL), but also it changed the sample that underlies the hourly rate data. The USAO Matrix 2015-2017 is no longer based on a sample of rates for complex federal litigation. It is based on ALM Legal Intelligence survey data from 2010 and 2011.¹¹ The USAO does not describe its new sample but its consultant has described the 2011 ALM Survey as consisting of "billing rates of attorneys in the Washington, DC area from law offices of *all sizes and types*" (emphasis added).¹²

¹⁰ While casual observation or firm-wide averages might suggest that small firms charge less than large firms, what I think is being observed is that smaller firms are providing a product mix that contains a larger share of simple services. Since simple services are billed at a lower rate than the rate for complex federal litigation services, firms with product mixes that have a large share of simple services will *appear* to have lower billing rates. Nevertheless, when a small firm provides complex federal litigation services, market forces will allow it to bill at the prevailing market rates for complex federal litigation services. So, when conducting a rate survey, the better question to ask is not about firm size but product mix (i.e. simple versus complex).

¹¹ See: <https://www.justice.gov/usao-dc/file/796471/download> Explanatory Note #2.

¹² See Declaration of Dr. Laura A. Malowane, para. ¶12 in *Makray v. Perez* (U.S. Secretary of Labor) Civil Action No. 12-0520 (BAH)(ECF No. 88-1).

22. The USAO's adoption of the PPI-OL, which is similar to the LSI, ends the discussion over the appropriate index to update the *Laffey* Matrix. USAO's adoption of the ALM survey changes the discussion to whether the ALM survey is appropriate to use to find prevailing billing rates for complex federal litigation.
23. It is my understanding that the goal is to produce a matrix of hourly rates that reflect prevailing market rates for complex federal litigation in Washington, D.C.
24. I reviewed the summary of affidavits and court documents collected by plaintiffs' counsel of prevailing market billing rates charged by Washington, D.C., firms in 2015 and 2016 (Pl. Exs. 47-49). These materials show that the LSI *Laffey* Matrix produces a better approximation of prevailing billing rates for complex federal litigation in the Washington, D.C., market than the USAO Matrix 2015-2017.
25. Since the LSI *Laffey* Matrix and USAO Matrix 2015-2017 use nearly identical price indices, the more probable reason why the USAO Matrix 2015-2017 makes an inferior estimate of prevailing market rates for complex federal litigation is because the USAO Matrix 2015-2017 applies its national price index for legal services to a sample that does not represent the billing rates for performing complex federal litigation.¹³
26. Adjusting the ALM survey for the passage of time will not correct this defect in the data. So, it is simply incorrect to use the USAO Matrix 2015-2017 to find prevailing hourly billing rates for complex federal litigation.

¹³ Previously, the USAO *Laffey* Matrix was updated with an improper price index, namely, a cost of living index, the All-Item Regional CPI, that gave almost no weight to the fees for legal services.

27. My billing rate for the preparation of this affidavit is \$250/hour.

Pursuant to 28 U.S.C. § 1746, I declare under penalty of perjury that the foregoing is true and correct. This document executed on September 24, 2016.

mkavanaugh

MICHAEL KAVANAUGH, PhD

Attachment 1

MICHAEL KAVANAUGH
Research Economist
Phone: 808 985 7031
E-mail: M.Kavanaugh@att.net

P.O. Box 1228
19-4231 Road E
Volcano, Hawaii 96785

PRESENT POSITION: Private Practice since 1985
Volcano, Hawaii 2008 to present
Batavia, Ohio 1993–2008
Washington, DC 1985-1993

PREVIOUS POSITIONS:

- Senior Economist, ICF Incorporated, 1983-85, Washington, D.C.
- Research Director, Public Interest Economics, 1976-1983, Washington, D.C. and San Francisco, CA.
- Assistant Professor, Northern Kentucky University, 1975-76

EDUCATION:

- PhD., Economics, University of Cincinnati, 1975
- BA. Economics, Xavier University, 1970

EXPERIENCE

- An independent research economist with years of experience;
- A national expert in the economic aspects of environmental enforcement and policies for controlling pollution;
- Experienced in regional economic analysis;
- Experienced in the use of economic indices;
- Experienced in valuing damages to persons, households, and commercial enterprises;
- Experienced in assessing natural resource damages; and,
- An author of groundwater management and climate change papers.

Short descriptions of selected projects follow.

ECONOMICS & FINANCE

I applied economics to many of the environmental changes of the last thirty years including:

- Estimating the ability of defendants to pay a penalty and the financial effects of penalties in enforcement cases;
- Estimating the benefits of cleaner beaches and rivers;

- Developing methods to determine the effects of water quality policies on agricultural output, employment and income;
- Developing methods to estimate the benefits of preserving groundwater quality;
- Advised on the adequacy of financial assurance mechanisms;
- Estimating expected and realized benefits of irrigation projects; and,
- Critiquing efforts to regulate effluents from several industries.

Designed and used financial after-tax, cash flow models to:

- Measure the ability to pay a penalty and the effects of penalties on financial position;
- Estimate the economic benefit gained by entities that violate law and regulation; and,
- Estimate the burden on the residential sector from municipal compliance with law and regulation.

Provided expert economic and litigation support services to the United States (and others) in Clean Water Act, Clean Air Act, Superfund, RCRA and groundwater quality cases.

Exxon Valdez – Estimated the employment and income effects from spending the civil settlement. The work involved characterizing the options in the restoration plan in term of input/output models.

For an environmental group, wrote a declaration on the economic studies needed to establish that a spillover effect was reasonably certain to result from a National Marine Fishery Service proposal to allow an expansion of the Hawaii-based fishing fleet. In the absence of a spillover effect, the expansion of the Hawaii-based fleet would jeopardized an endangered turtle species.

Natural resource damage assessments

- Ohio River – valued public resource damages from spills from tugs and barges. The work combined results from Natural Resource Damage Assessment models, studies of the costs of reducing risks to drinking water, and restoration costs.
- Kailua Beach State Park – valued a three-mile beach based on recreational use and estimated the damage from wastewater treatment plant effluent. The work involved reviewing, updating and synthesizing a variety of studies that valued recreation.
- Florida Beaches – valued beach closures from pollution at several beaches. The work involved extensive use of the Natural Resource

Damage Assessment models for coastal and marine environments.

Energy & Environment

- Commented on economic impacts to employment and structures of planned, utility-scale photovoltaic projects in Southern California.
- Conducted several analyses of U.S. energy industry to estimate current and future energy production and consequences in wetlands and in the North Aleutian Basin.
- Estimated the cost effectiveness of technologies to control produced water discharges in wetlands.
- Estimated the impact of produced water controls on production, royalties and returns from coal bed methane production.
- Estimated the change in rates needed to pay for adopting cooling water intake controls at a nuclear power plant.
- Advised environmental groups on methods to fund the WV acid mine drainage reclamation fund.
- Design team member to size and fund the Superfund.
- Estimated onshore economic impacts of outer continental shelf oil and gas development in California.
- Examined the efficiency and equity of federal leasing policies for oil and gas on public lands

Global Climate

- Estimated current and future greenhouse gas emissions by fuel, sector and region. The work involved estimating long-term energy using an economic model based on prices, income and combustion technology.
- Estimated greenhouse gas emissions by jets at altitude by region and the change in emissions from adopting advanced jet technology.
- Modeled current and future emission from the US automobile fleet under various assumptions about future fuel efficiency.
- Analyzed the benefits of substituting hydrocarbon propellants for CFC propellants in aerosol products. The results showed the same level of consumer satisfaction could be obtained without CFCs and without increasing prices.

Publications since 2005

none

Federal Court Trial Testimony since September 2011

Sierra Club v. Virginia Electric and Power Company d/b/a Dominion Virginia Power; United States District Court for the Eastern District of Virginia, Richmond, Virginia Civil Case No. 2:15-CV-112-RAJ-DRM-JAG (6/16)

Deposition Testimony since September 2011

Little Hocking Water Association v. Dupont (5/14) 2:09-cv-010BI-GCS-NMK

Ohio Valley Environmental Coalition, et al. v. Consol of Kentucky, Inc., (10/14) cv: 2:13-5005

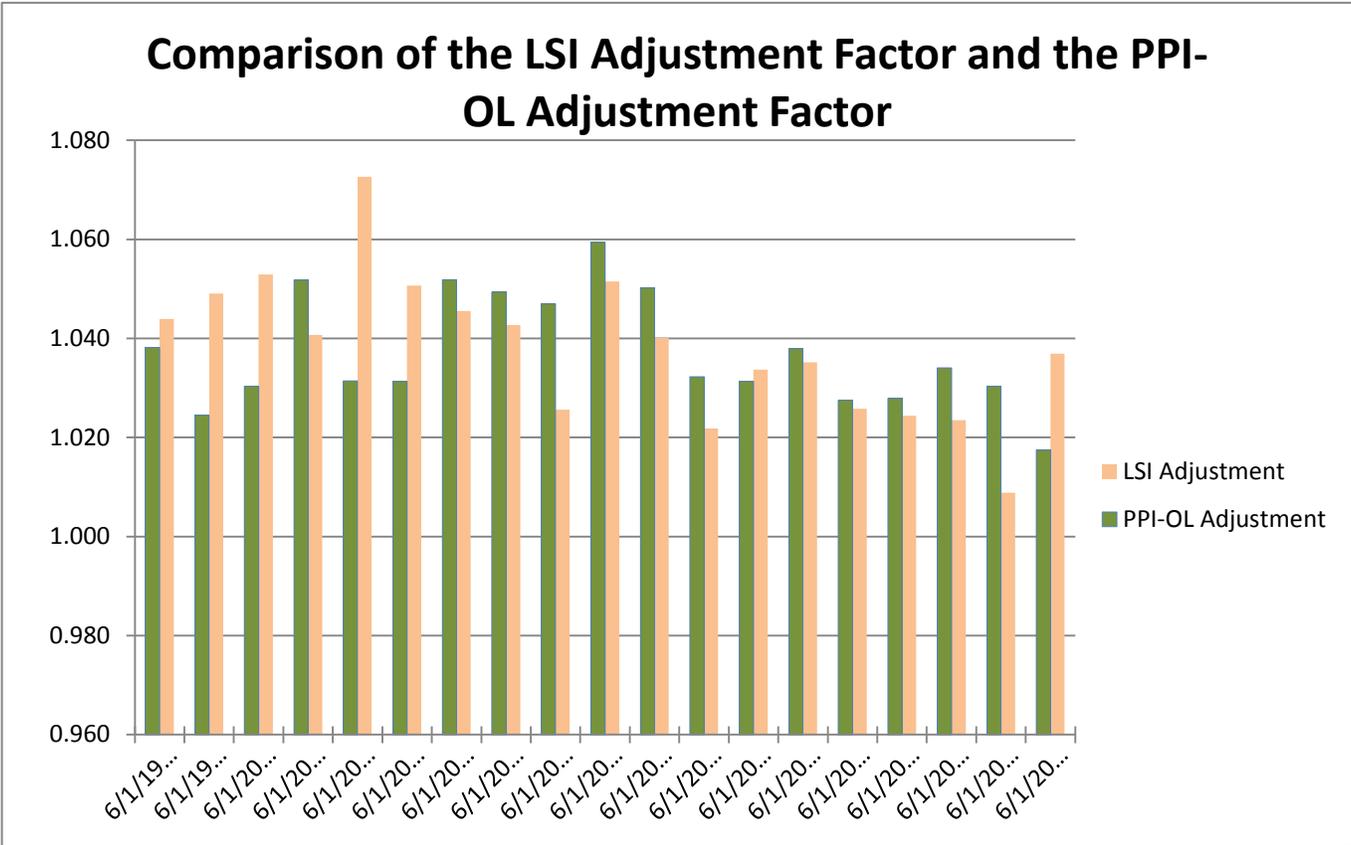
PennEnvironment and Sierra Club v. PPG, Inc. et al. (1/15) 2:12-cv-00342-RCM

Hawai'i Wildlife Fund, Sierra Club - Maui Group, Surfrider Foundation, and West Maui Preservation Association v. County of Maui (5/15) Civil Case No. 12-00198 SOM, BMK

California Communities Against Toxics v. Armorcast Products Company, Inc. et al. (10/15) Civil Case No. Case No. 2:14-cv-05728-PA-FFM

Sierra Club v. Virginia Electric and Power Company d/b/a Dominion Virginia Power; United States District Court for the Eastern District of Virginia, Richmond, Virginia (5/16) Civil Case No. 2:15-CV-112-RAJ-DRM-JAG

Comparison of the LSI Adjustment Factor and the PPI-OL Adjustment Factor				
Rate Year		LSI Adjustment	PPI-OL Adjustment	PPI-OL Differential
6/1/2016	5/31/2017	1.036943	1.017474	-0.019469
6/1/2015	5/31/2016	1.008873	1.030350	0.021477
6/1/2014	5/31/2015	1.023459	1.034043	0.010584
6/1/2013	5/31/2014	1.024383	1.027884	0.003501
6/1/2012	5/31/2013	1.025790	1.027528	0.001738
6/1/2011	5/31/2012	1.035168	1.037901	0.002733
6/1/2010	5/31/2011	1.033724	1.031269	-0.002455
6/1/2009	5/31/2010	1.021848	1.032278	0.010430
6/1/2008	5/31/2009	1.040127	1.050196	0.010069
6/1/2007	5/31/2008	1.051500	1.059392	0.007892
6/1/2006	5/31/2007	1.025641	1.046999	0.021358
6/1/2005	5/31/2006	1.042691	1.049317	0.006626
6/1/2004	5/31/2005	1.045537	1.051875	0.006338
6/1/2003	5/31/2004	1.050687	1.031276	-0.019411
6/1/2002	5/31/2003	1.072663	1.031409	-0.041254
6/1/2001	5/31/2002	1.040719	1.051786	0.011067
6/1/2000	5/31/2001	1.052895	1.030359	-0.022536
6/1/1999	5/31/2000	1.049065	1.024505	-0.024560
6/1/1998	5/31/1999	1.043902	1.038160	-0.005742



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

DL¹, *et al.*, on behalf of themselves)
 and all others similarly situated,)
)
 Plaintiffs,)
)
 v.)
)
 THE DISTRICT OF COLUMBIA,)
et al.,)
 Defendants.)
 _____)

Plaintiffs' Exhibit
28
 Civ. No. 05-1437 (RCL)

Civil Action No. 05-1437 (RCL)

AFFIDAVIT OF MICHAEL P. DOWNEY

I, Michael P. Downey, Esq., declare, pursuant to 28 U.S.C. 1746 and under the penalty of perjury, that the following is true and correct.

A. Background and Qualifications.

1. *Law Practice.* I am a legal ethics lawyer and founder of Downey Law Group LLC, a law firm devoted to legal ethics, law firm risk management, and the law of lawyering. Prior to starting Downey Law Group LLC in February 2015, I spent almost four years as a (non-equity) partner in the Litigation practice group at Armstrong Teasdale LLP in St. Louis, Missouri, and before that I worked for more than a decade at law firms employing between approximately 10 attorneys (Fox Galvin LLC) to more than 450 attorneys (Hinshaw & Culbertson LLP).

2. I am licensed to practice law in Missouri (since October 1998) and in Illinois (since May 1999). I am also admitted to practice before the United States Supreme Court, the United States Courts of Appeal for the Seventh and Eighth Circuits, and United States District Courts including the United States District Courts for the Eastern and Western Districts of Missouri and the Central and Southern Districts of Illinois.

3. *Teaching.* In addition to my full-time law practice, I teach legal ethics and law firm practice management. I have taught as an adjunct professor at Washington University School of Law since 2001 and at St. Louis University School of Law since 2010. Courses that I have taught at Washington University School of Law include the legal ethics courses Practical Ethics for Civil Litigation (2003-05); Lawyer Ethics (2007 and 2009); and Ethics & Practice Management (2008, 2011 and 2013). In 2010, 2012, and 2014, I taught Legal Professions at St. Louis University School of Law. Each of these classes is a general legal ethics class, and satisfies students' requirement to take legal ethics before graduation. Since 2008, I have also taught a Washington

¹ Pursuant to Local Rule 5.4(f)(2), minors are identified by their initials.

University School of Law January intersession class titled Introduction to Law Firm Practice, which focuses on how law firms are structured and operate, develop clients, generate revenues, and compensate employees. Since 2003, I have regularly taught law students regarding law firm billing, including methods of billing, billing rates, ethical limitations on billing, and related issues.

4. *Relevant Bar Committee Work.* I am active and have held leadership positions in numerous national, state, and local bar association committees related to legal ethics and law firm practice. This includes work as:

- Former chair of the American Bar Association (ABA) Law Practice Division, as well as service as the Secretary, Vice Chair, and Chair Elect of this group when it was known as the ABA Law Practice Management Section
- Former chair of the ABA Law Practice Division's Ethics Committee
- Past member of the ABA Task Force on the Future of Legal Education
- Past member and former chair of the Standing Committee on Professional Conduct of the Illinois State Bar Association (ISBA)
- Past member and former chair of the Professionalism & Ethics Committee of the Bar Association of Metropolitan St. Louis (BAMSL)
- Past member of the Missouri Bar and Missouri Supreme Court's Joint Task Force on the Future of the Profession
- Past member of the Technology Working Group for the ABA's Commission on Ethics 20/20

5. *Publications and Presentations.* I authored the book *Introduction to Law Firm Practice* (ABA LPD 2010) and have published more than 150 articles, including columns that appear in the ABA publications *Litigation* and *Law Practice* and the BAMSL publication the *St. Louis Lawyer*. I have presented more than 500 times on professional ethics, mainly legal ethics.

6. In December 2013, Missouri Lawyers Weekly named me a 2014 Most Influential Lawyer for my work as leader of the ABA Law Practice Division and as the "go-to legal ethics lawyer" in Missouri. I was also named one of the "Top 50 Lawyers in St. Louis" by *Super Lawyers* in October 2015, and also a "Super Lawyer" in 2016.

7. I have been interviewed and quoted more than seventy-five times on professional (usually legal) ethics including by the *New York Times*, *ABA Journal*, *Illinois Bar Journal*, *National Law Journal*, and *Missouri Lawyers' Weekly*.

8. A copy of my curriculum vitae is attached as Exhibit A.

9. *Expert witness work.* I have provided testimony – in person or by affidavit – in more than twenty cases including cases pending in Missouri, Illinois, and Kansas, and also previously in this case in the District of Columbia. I have also provided testimony in an arbitration matter pending in Pennsylvania. Many of the cases where I have testified relate to lawyer billing and ethical issues relating to legal fees and billing. My prior expert testimony is listed in Exhibit B to this affidavit.

10. *Education.* I graduated first in my class from Washington University School of Law in May 1998. I also earned a graduate certificate in Law Firm Management from the College of Professional Studies at George Washington University in 2006. My bachelor's degree in Classics (Humanities) is from Georgetown University with honors.

11. *Familiarity with Law Firm Billing and Related Issues, Including in the District of Columbia.* Through my legal practice and teaching, as well as from my work on bar committees related to law firm practice, I am familiar with the market practices and hourly rates for lawyers, including those for complex federal litigation nationally and in the Washington, D.C. market. In addition, my teaching, speaking, and writing cause me to gather and review substantial amounts of information regarding law firm rates and billing. Also, over the course of my career, I have worked with a number of law firms in Washington, D.C., on issues related to firm management.

12. Although I am located in the Midwest, my legal work, teaching, and bar activities cause me to be familiar with all major United States legal markets. My students also seek employment and work in all major United States legal markets, so I keep current on law firm practice trends throughout the country, particularly with regard to Washington, D.C., New York, Los Angeles, San Francisco, Denver, and Charlotte. Washington, D.C. is among the most significant legal markets in the country. Washington, D.C. usually ranks second or third in terms of the most firms in the National Law Journal's annual list of the country's largest law firms, which in June 2016 was expanded to 500 firms.

B. Opinions in this Case.

13. In my professional opinion, the market for complex federal litigation is a national market. This means that firms from all over the country compete to handle such litigation. The Washington, D.C. market is part of that national market. Firms from around the country come into the Washington, D.C. market to handle cases in the federal courts and District firms handle cases in other markets.

14. Some of this national competition is evidenced by the fact that many firms from around the country have offices in Washington, D.C. It is also evidenced by the fact that firms from markets around the country, including my former firms Armstrong Teasdale LLP and Hinshaw & Culbertson LLP, come to Washington, D.C., to litigate in many of its federal courts,

including the Federal Circuit and the Supreme Court, which are unique to Washington, D.C.²

15. Because of this flow of litigators, local and non-local firms compete in the market for complex federal litigation. This includes competition regarding billing rates.

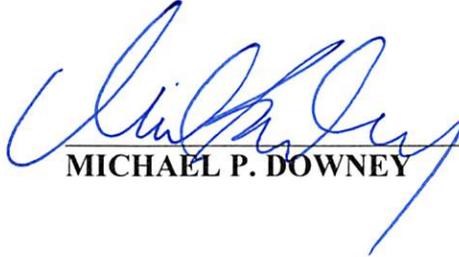
16. The market for complex federal litigation, in Washington, D.C. and elsewhere, is comprised of law firms of different sizes all of which compete against each other. Each of the firms in the market competes against each other to represent those who require the services of litigators experienced in complex federal litigation.

17. Both firm size and firm overhead are not significant factors in the setting of hourly rates for complex federal litigation. Instead, rates are a function of the value of the services in the market. When setting rates for time-based billing, firms do not use cost-plus pricing. Most firms also normally do not consider overhead a major factor in setting rates.

18. In some instances, firms charge a trial rate and a preparation rate. Such practices are unusual, however, and ordinarily do not occur in the handling of complex federal litigation. Rather, in such litigation, firms customarily bill a client one rate for a particular attorney irrespective of the type of legal activity performed by the attorney in the matter. The complexity of tasks is accounted for in two ways other than switching rates: the reasonableness of number of hours necessary to accomplish the task and the appropriateness of the experience level or seniority of the individual assigned to undertake the task. Thus, if it is appropriate to have senior counsel performing the task, the task is billed at the senior counsel's hourly rate.

19. I am being paid \$500 for the preparation of this revised affidavit.

Executed on this 21st day of September 2016.



MICHAEL P. DOWNEY

² The national character of the Washington, D.C. legal market is also seen in the fact that membership in the District of Columbia is open to most attorneys regardless of their geographical location.



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Saint Louis, Missouri 63119
(314) 961-6644 (314) 482-5449 Cell
Mdowney@DowneyLawGroup.com

EDUCATION

- 2006 GEORGE WASHINGTON UNIVERSITY, Alexandria, Virginia
Graduate Certificate in Law Firm Management Grade Point: 4.0
Program co-sponsored by the College of Professional Studies and Hildebrandt Institute
- 1998 WASHINGTON UNIVERSITY SCHOOL OF LAW, St. Louis, Missouri
Juris Doctor Class Rank: 1 of 211 Order of the Coif
Executive Articles Editor, Washington University Law Quarterly
Research Assistant to Dean Dorsey Ellis (1995-97) and Professor Stuart Banner (1996)
- 1994 WASHINGTON UNIVERSITY DEPARTMENT OF EDUCATION, St. Louis, Missouri
Post-A.B. Teaching Certification, Latin Language
- 1992 GEORGETOWN UNIVERSITY, Washington, D.C.
Bachelor of Arts, cum laude, Classics (Humanities)

JUDICIAL CLERKSHIP

- 1998- U.S. COURT OF APPEALS FOR THE EIGHTH CIRCUIT, Kansas City, Missouri
- 1999 Law Clerk for the Honorable Pasco M. Bowman, II, Chief Judge

LAW SCHOOL TEACHING

- 2010- ST. LOUIS UNIVERSITY SCHOOL OF LAW, St. Louis, Missouri
Adjunct professor teaching legal ethics in the Juris Doctor Program
Course taught: Spring 2010, 2012, 2014 Legal Professions
- 2000- WASHINGTON UNIVERSITY SCHOOL OF LAW, St. Louis, Missouri
Adjunct Professor teaching legal ethics and law firm practice in the Juris Doctor program (2003-) and Introduction to U.S. Law & Methods in the International LL.M. program (2001-02)
Courses:
 - Fall 2007, Spring 2009 Lawyer Ethics
 - Spring 2008, 2011, 2013 Ethics & Practice Management
 - January 2008-16, Summer 2010 Introduction to Law Firm Practice
 - Spring 2007 Litigation Ethics & Practice Management
 - Spring 2003-05 Practical Ethics for Civil Litigation
 - Spring 2002 Introduction to U.S. Law & Methods II
 - Spring 2001 Introduction to U.S. Law & Methods

Curriculum Vitae of Michael P. Downey

September 21, 2016

Page 2 of 49

PROFESSIONAL EXPERIENCE

- 2015- DOWNEY LAW GROUP LLC, Saint Louis, Missouri
Legal ethics lawyer and founder of a law firm devoted to legal ethics, law firm risk management, lawyer discipline defense, and the law of lawyering
- 2011- ARMSTRONG TEASDALE LLP, St. Louis, Missouri
2015 Partner in the litigation practice group, with practice focused on complex civil litigation, ethics and discipline, risk management, and related matters for lawyers and other professionals
- 2007- HINSHAW & CULBERTSON LLP, St. Louis, Missouri
2011 Partner in the national *Lawyers for the Profession*[®] practice group, with practice focused on ethics, discipline, risk management, and related matters for lawyers and accountants
- 2001- FOX GALVIN, LLC, St. Louis, Missouri
2007 Partner (2006-07) and associate (2001-07) representing companies in civil litigation, including commercial, class action, environmental, and product liability cases; also advise lawyers and accountants on ethics and disciplinary issues
- 1999- STINSON, MAG & FIZZELL, P.C., St. Louis, Missouri
2001 Associate primarily representing companies in civil litigation, including commercial, employment, and class-action matters, in Missouri and Illinois state and federal courts
- 1992- SCHOOL DISTRICT OF THE CITY OF LADUE, St. Louis, Missouri
1995 Taught Latin I-V and coached soccer and chess

PUBLICATIONS

Books, Chapters & Monographs

- 2015 Chapter, *Legal Ethics and Lawyer Business Development*, in *Grow Your Practice: Legal Marketing and Business Development Strategies*, New York State Bar Association (2015)
- 2011 Chapter, *Satisfying Ethical Obligations When Outsourcing Legal Work Overseas*, in intellectual property strategies for the 21st century corporation, John Wiley & Sons, Inc. (2011)
- 2010 Book, *Introduction to Law Firm Practice*, American Bar Association Law Practice Management Section (2010)
- 2006 *Monograph on Missouri Warnings Law*, in ABA Survey of State Product Liability Warnings, ABA Section of Litigation—Product Liability Committee (Summer 2006)

Articles & Columns (Public)

- 2016 Column, *Managing a Law Firm Through Dissolution: Part II*, *Law Practice* (September/October 2016)
- 2016 Column, *Responding to a Subpoena Seeking Client Information*, *Litigation* (Summer 2016)
- 2016 Column, *Eleven Tips for Managing and Protecting Client Records*, *St. Louis Lawyer* (July 2016)

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- 2016 Column, *Managing a Law Firm Through Dissolution: Part I*, Law Practice (July/August 2016)
- 2016 Column, *New ABA Opinion 474 helps define “joint responsibility” in fee-sharing arrangements*, St. Louis Lawyer (June 2016)
- 2016 Column, *Caught with an Adversary’s Privileged Emails: In re Eisenstein* (2016), St. Louis Lawyer (May 2016)
- 2016 Column, *11 Ethics Guidelines for Alternative Fee Arrangements*, Law Practice (May/June 2016)
- 2016 Column, *Erin Andrews’ Trial Shows Ethics Rule Is Needed*, National Law Journal (April 25, 2016)
- 2016 Column, *Upjohn Warnings*, Litigation (Spring 2016)
- 2016 Column, *Technically Truthful but Unethical Conduct Before Tribunals under In re Krigel and Rule 4-3.3(A)(3)*, St. Louis Lawyer (April 2016)
- 2016 Column, *Legal Ethics and Flexible Lawyer Staffing, Part II*, Law Practice (March/April 2016)
- 2016 Column, *Protect Yourself When Doing Business With Clients*, St. Louis Lawyer (March 2016)
- 2016 Column, *Legal Ethics and Flexible Lawyer Staffing, Part I*, Law Practice (January/February 2016)
- 2015 Column, *Illinois Updates Its Legal Ethics Rules*, St. Louis Lawyer (December 2015)
- 2015 Column, *Don’t Let the Grapes Sour When Lawyers Depart*, National Law Journal (November 23, 2015)
- 2015 Column, *Selling or Transferring a Law Practice*, Law Practice (November/December 2015)
- 2015 Column, *Adversity to a Colleague’s Former Colleague*, Litigation (Fall 2015)
- 2015 Column, *A Client’s Right to the Legal File*, St. Louis Lawyer (October 2015)
- 2015 Column, *Are You Handling Client Credit Card Payments Properly*, Law Practice (September/October 2015)
- 2015 Column, *Don’t Be an Ostrich with Risk Management*, National Law Journal (August 10, 2015)
- 2015 Article, *Nine Ways to Build Your Law Practice by Publishing*, Law Practice Today (August 4, 2015)
- 2015 Column, *Lawyer Substance Abuse and Legal Ethics*, St. Louis Lawyer (August 2015)
- 2015 Column, *Legal Ethics and Loop Holes*, St. Louis Lawyer (July 2015)
- 2015 Column, *Responding to Media Reports About Your Client’s Case*, Litigation (Summer 2015)
- 2015 Column, *Craft a Proper Partnership Agreement Now*, Law Practice (July/August 2015)

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- 2015 Column, *Protecting your client's (former) employees from opposing counsel*, St. Louis Lawyer (June 2015)
- 2015 Column, *10 Tips for Moving Client Work to a New Firm*, Law Practice (May/June 2015)
- 2015 Column, *Obtaining Evidence from Former Counsel*, Litigation (Spring 2015)
- 2015 Column, *11 tips for responding to an ethics complaint*, St. Louis Lawyer (May 2015)
- 2015 Column, *The Lawyer Ethics Lessons of Ferguson*, National Law Journal (April 27, 2015)
- 2015 Column, *Making your client's problems your problem*, St. Louis Lawyer (April 2015)
- 2015 Column, *Seven Tips to Keep Client Solicitations Ethical*, Law Practice (March/April 2015)
- 2015 Column, *Discovering an Adversary's Medical Records*, Litigation (Winter 2015)
- 2015 Column, *Comparing the attorney-client privilege and work-product protection*, St. Louis Lawyer (March 2015)
- 2015 Column, *Law Office Risk Management Checkup*, St. Louis Lawyer (February 2015)
- 2015 Column, *What's In A Name? Could Be Ethics Violations*, National Law Journal (January 12, 2015)
- 2015 Column, *Five Points to Know about Non-Compete Agreements for Lawyers*, St. Louis Lawyer (January 2015)
- 2015 Column, *11 Tips on How to Cease Representing a Troublesome Client*, Law Practice (January/February 2015)
- 2015 Article, *Legal Ethics and Developing New Clients*, St. Louis Bar Journal (Winter 2015)
- 2014 Column, *Assessing the fitness of future lawyers*, St. Louis Lawyer (December 2014)
- 2014 Column, *Law practice sales improved by ABA Formal Opinion 468*, St. Louis Lawyer (November 2014)
- 2014 Column, *When Can a Lawyer Cease Representing a Troublesome Client*, Law Practice (November/December 2014)
- 2014 Column, *A Hot Check Can Plunge A Lawyer Into Hot Water*, National Law Journal (October 6, 2014)
- 2014 Column, *Dealing with a colleague's health-related impairments*, St. Louis Lawyer (October 2014)
- 2014 Column, *Letters of Protection*, Litigation (Fall 2014)
- 2014 Column, *9 Legal Ethics Aspects of Lawyer Criminal Convictions*, St. Louis Lawyer (September 2014)

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- 2014 Column, *Nine Tips for Referral Arrangements with Nonlawyers*, Law Practice (September/October 2014)
- 2014 Column, *Attorney Testimony to Enforce Settlement Agreements*, St. Louis Lawyer (August 2014)
- 2014 Column, *Perspectives: Buck Up and (Really) Innovate*, Law Practice (July/August 2014)
- 2014 Column, *Imputation of conflicts for government and non-government lawyers*, St. Louis Lawyer (July 2014)
- 2014 Column, *Time to Nix the Rule on "Specialist" Designations*, National Law Journal (June 16, 2014)
- 2014 Column, *The Scope of the Duty to Preserve*, Litigation (Summer 2014)
- 2014 Column, *Googling jurors – ABA takes position*, St. Louis Lawyer (June 2014)
- 2014 Column, *Perspective: Handling Problematic Rainmakers*, Law Practice (May/June 2014)
- 2014 Column, *A lawyer's duty to supervise and ethics liability for subordinates' actions*, St. Louis Lawyer (May 2014)
- 2014 Column, *Soliciting legal business in person*, St. Louis Lawyer (April 2014)
- 2014 Column, *Accessing an Adversary's Emails*, Litigation (Spring 2014)
- 2014 Column, *Truth (and taste) in advertising: Jamie Casino and the ABA Marketing Conference*, St. Louis Lawyer (March 2014)
- 2014 Column, *Perspectives: Lawyers and Their Devices: Will Clients Show Interest*, Law Practice (March/April 2014)
- 2014 Column, *Handling emails for a lawyer who has exited the firm*, St. Louis Lawyer (February 2014)
- 2014 Column, *Online Pretrial PR – Protected but Risky*, National Law Journal (January 27, 2014)
- 2014 Column, *Impact of GALs on application of the Anti-Contact Rule (Rule 4-4.2)*, St. Louis Lawyer (January 2014)
- 2014 Column, *Perspectives: The LP Division's Focus on Gender Equity*, Law Practice (January/February 2014)
- 2014 Column, *Threatening an Adversary*, Litigation (Winter 2014)
- 2013 Column, *Unpaid law student interns can help law firms provide pro bono legal services*, St. Louis Lawyer (December 2013)
- 2013 Article, *The Delicate Balance of Booting Judges*, National Law Journal (November 4, 2013)
- 2013 Column, *Professional Discipline for Personal Misconduct? In re Hess (Mo. 2013) defines the scope of Rule 4-3.1*, St. Louis Lawyer (November 2013)

- 2013 Column, *Perspectives: Digital Legal Marketing and the Threat to Client Confidences*, Law Practice (November/December 2013)
- 2013 Column, *Interfering with Client Relationships*, Litigation (Fall 2013)
- 2013 Column, *Hiding or Removing Harmful Social Media Posts*, St. Louis Lawyer (September 2013)
- 2013 Column, *Perspectives: Changes to Nonlawyer Ownership Coming from the Bottom Up*, Law Practice (September/October 2013)
- 2013 Column, *The Ethics of Attracting Attention through Search Engine Marketing*, St. Louis Lawyer (August 2013)
- 2013 Column, *Navigating LinkedIn Ethically and Effectively*, St. Louis Lawyer (July 2013)
- 2013 Column, *The Lying Client*, Litigation (Summer 2013)
- 2013 Column, *New rules on Missouri Lawyer Trust Accounts*, St. Louis Lawyer (June 2013)
- 2013 Column, *Evaluating Attorney-Fee Awards: Berry v. Volkswagen Group*, St. Louis Lawyer (May 2013)
- 2013 Column, *Ex Parte Contacts with an Adversary's (Former) Clients*, Litigation (Spring 2013)
- 2013 Column, *Broad Advance Waivers of Future Conflicts and Galderma*, St. Louis Lawyer (April 2013)
- 2013 Column, *What about financial assistance to clients?*, St. Louis Lawyer (March 2013)
- 2013 Column, *Communicating with an Unrepresented Adversary*, Litigation (Winter 2013)
- 2013 Column, *Ethics and the Virtual Law Office*, St. Louis Lawyer (February 2013)
- 2013 Column, *No Firing Clients to Cure Conflicts: the "Hot Potato" Doctrine*, St. Louis Lawyer (January 2013)
- 2012 Column, *Beware the Partner Trap*, National Law Journal (November 12, 2012)
- 2012 Column, *The Ethics of "Daily Deals,"* St. Louis Lawyer (November 2012)
- 2012 Column, *Sinister Secret Settlements*, Litigation (Summer/Fall 2012)
- 2012 Column, *Conflicts of Interest, Part III—Resolving a Conflict of Interest*, St. Louis Lawyer (October 2012)
- 2012 Article, *Dealing with Outside Counsel's Conflict of Interest, Part II—The Relationship's Over, Let's Litigate*, ACC-STL Focus Newsletter (September 2012)
- 2012 Column, *Conflicts of Interest, Part II—Analyzing Conflicts of Interest*, St. Louis Lawyer (September 2012)

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- 2012 Column, *Conflicts of Interest, Part I—Identifying and Categorizing Clients*, St. Louis Lawyer (August 2012)
- 2012 Article, *Ethical Rules for Litigating in the Court of Public Opinion*, Section of Litigation Ethics & Professionalism E-Newsletter (Summer 2012); reprinted as *Litigating in the court of public opinion*, Missouri Lawyers Weekly (May 6, 2013)
- 2012 Column, *Legal ethics, online data storage, and proposed Rule 1.6(c)*, St. Louis Lawyer (July 2012)
- 2012 Column, *When Pled Allegations Hit the Newspapers*, Litigation (Spring 2012)
- 2012 Column, *Legal Q&A Websites and the Lessons of SC Opinion 12-03*, St. Louis Lawyer (June 2012)
- 2012 Article, *Pretexting and the Discovery of Social Media*, Litigation (Winter 2012)
- 2012 Article, *Dealing with Outside Counsel's Conflict of Interest (Part I)*, ACC-STL Focus Newsletter (April 2012)
- 2012 Article, *Building a Portable Book of Business*, Law Practice (March/April 2012)
- 2012 Article, *Lawyer Advertising, In re Hunter, and the First Amendment*, ABA Section of Litigation, First Amendment & Media Litigation website (March 2012)
- 2012 Participant, *Symposium on Legal Education's Response to the Economic Realities Facing the Profession* sponsored by www.LegalEthicsForum.com (February 2012)
- 2011 Column, *The Lawyer as Witness*, Litigation (Fall 2011)
- 2011 Article, *Why Law Firms Should Use Separation Agreements for Departing Lawyers: Vance v. Griggs*, Missouri Bar Journal (November-December 2011)
- 2011 Column, *Handling Flat Fees*, Litigation (Summer 2011)
- 2011 Article, *Happiness at a Law Firm -- Building a Portable Book of Business*, St. Louis Bar Journal (Fall 2011)
- 2011 Article, *Elements of an Effective Ethical Screen*, ABA/BNA Lawyers Manual on Professional Conduct (September 2011); shortened version published in *BNA's Corporate Counsel Weekly* (October 5, 2011)
- 2011 Column, *Counseling a Client to Waive Ineffective Assistance of Counsel—Burgess v. State (Mo. 2011) revisited*, St. Louis Lawyer (August 2011)
- 2011 Column, *Managing the Risks of Limited Scope Engagements under Missouri Rule 4-1.2*, St. Louis Lawyer (February 2011)
- 2010 Column (with Anthony Davis), *Protecting and Securing Client Information*, New York Law Journal (November 5, 2010)

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- 2010 Article, *Serious About Confidentiality*, National Law Journal (October 18, 2010)
- 2010 Column (with Anthony Davis), *Weighing the Risks of Suing for Fees*, New York Law Journal (September 7, 2010)
- 2010 Column, “*Material Adversity*” and *Former Client Conflicts*: *Miess v. Port City Trucking*, St. Louis Lawyer (August 2010)
- 2010 Article, *12 Tips for Reducing Online Dangers and Liabilities*, Law Practice (July/August 2010)
- 2010 Article, *Thanks for the Headache*, ABA Journal (March 2010)
- 2010 Column, *Sinner or Saint? Attorney-Client Relationships and Former Client Conflicts Under St. Stanislaus*, St. Louis Lawyer (March 2010) (Reprinted in Missouri Bar’s *Precedent* 2011)
- 2009 Article, *Law Firm Online Activity Policy*, The Professional Lawyer (December 2009)
- 2009 Column, *In re Coleman and the Power to Settle*, St. Louis Lawyer (October 2009); reprinted in Missouri Bar’s *Precedent* (Summer 2010)
- 2009 Column, *Surprise! Conflicts in Seemingly Unrelated Representations*, St. Louis Lawyer (July 2009)
- 2009 Column, *Is Your Firm Ready for Disaster*, St. Louis Lawyer (April 2009)
- 2009 Column, *Ethics and Leaving or Changing Law Firms*, St. Louis Lawyer (February 2009)
- 2008 Column, *Eye on Ethics: Recovering Fees When Lawyer-Client Relationships End*, St. Louis Lawyer (May 2008)
- 2008 Column, *Eye on Ethics: Ethics and Contingency Fees*, St. Louis Lawyer (April 2008); reprinted in Missouri Bar’s *Precedent* (Spring 2012)
- 2008 Column, *Eye on Ethics: Eighth Circuit Explores the Crime-Fraud Exception to Privilege and the Work-Product Protection*, St. Louis Lawyer (February 2008) (Reprinted in Missouri Bar’s *Precedent* 2011)
- 2007 Interview, *Profile in Professionalism: Meet John M. “Jack” Brant*, Winter 2007 ABA Center_Piece (December 2007)
- 2007 Article, *Don’t Be Vague in Top 10 Ethics Traps*, ABA Journal (November 2007)
- 2007 Column, *Eye on Ethics: Rule 4-1.8(c) and the Solicitation of Gifts from Clients*, St. Louis Lawyer (July 2007)
- 2007 Column, *Eye on Ethics: The 2007 Amendments to the Missouri Rules of Professional Conduct*, St. Louis Lawyer (May 2007)
- 2007 Interview, *Eye on Ethics: Alan Pratzel—Missouri’s New Chief Disciplinary Counsel*, St. Louis Lawyer (April 2007)

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- 2007 Interview, *Profile in Professionalism: Meet William Freivogel*, Spring 2007 ABA Center_Piece (March 2007)
- 2007 Article, *E-Discovery Survival Guide for Litigators*, St. Louis Lawyer (February 2007)
- 2006 Column, *Ethics and E-Data Destruction*, For the Defense (December 2006)
- 2006 Column, *Ethical Obligations Upon Receiving Inadvertently Disclosed Privileged Metadata*, St. Louis Lawyer (December 2006)
- 2006 Article, *Eye on Ethics: Fee Sharing Among Lawyers*, St. Louis Lawyer (August 2006)
- 2006 Article, *Does a Conflict Vicariously Taint an Associated Firm?*, Litigation Ethics (Spring 2006 Issue, June 2006)
- 2006 Column, *Navigating an Insurer-Insured Conflict over Settlement*, For the Defense (May 2006)
- 2006 Column, *Advance Waivers of Future Conflicts*, For the Defense (April 2006)
- 2006 Column, *Eye on Ethics: Disclosing a Client's Intended Misconduct under Missouri and Illinois Law*, St. Louis Lawyer (January 2006)
- 2006 Column, *Ethics and Time-Based Billing*, Law Practice TODAY Webzine (January 2006)
- 2006 Column, *Defense Ethics and Professionalism: Distinct Issues—Use of Temporary Lawyers*, For the Defense (January 2006)
- 2005 Column, *Eye on Ethics: Ethics and Time-Based Billing*, St. Louis Lawyer (December 2005)
- 2005 Article, *Over the River and Through the MJP Thicket*, St. Louis Bar Journal (Fall 2005)
- 2005 Column, *Eye on Ethics: Does a Governmental Attorney-Client Privilege Protect John Roberts' Memoranda?*, St. Louis Lawyer (September 2005)
- 2005 Column, *Eye on Ethics: A Duty to Investigate Your Own Client?*, St. Louis Lawyer (July 2005)
- 2005 Column, *Defense Ethics and Professionalism: The Ethics of Bluffing*, For the Defense (June 2005)
- 2005 Column, *Eye on Ethics: Guidance on Multijurisdictional Practice Issues: Missouri Amends Rules 4-5.5*, St. Louis Lawyer (June 2005)
- 2005 Column, *Eye on Ethics: Clients with Diminished Capacity*, St. Louis Lawyer (January 2005)
- 2004 Column, *Defense Ethics and Professionalism: Avoid Discipline for Criticism*, For the Defense (December 2004)
- 2004 Column with Richard Ahrens, *Eye on Ethics: Improving the Advertising Rules: The Perspective of 2 Members of the BAMSL Professionalism & Ethics Committee*, St. Louis Lawyer (November 2004)

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- 2004 Column, *Eye on Ethics: Missouri Bar Proposes New Rules on Lawyer Marketing; BAMSL Hosts Town Hall Meeting to Debate on September 10*, St. Louis Lawyer (September 2004)
- 2004 Column, *Eye on Ethics: Ethical Screens*, St. Louis Lawyer (July 2004)
- 2004 Article, *State changes ethics rules for accountants, lawyers*, St. Louis Business Journal (May 14-20, 2004) Reprint of *In Enron's Shadow*
- 2004 Article, *In Enron's Shadow, Missouri Quietly Adopts New Ethics Rules for All Accountants and Lawyers*, published by the Missouri Bar in *Corporate Law Update: A Collection of Timely Articles for Law Day 2004* (April 2004)
- 2004 Column, *Eye on Ethics: The practice and unauthorized practice of law*, St. Louis Lawyer (February 2004)
- 2003 Column, *Eye on Ethics: Rules 1.8 and 5.7 and law-related businesses*, St. Louis Lawyer (December 2003)
- 2003 Column, *Eye on Ethics: A non-payer client may not interfere with legal representation*, St. Louis Lawyer (October 2003)
- 2003 Column, *Eye on Ethics: Attorneys are not "GLB" (covered by the Graham-Leach-Bliley Act)*, St. Louis Lawyer (September 2003)
- 2003 Column, *Eye on Ethics: What duties and responsibilities do attorneys owe prospective clients? The Missouri Supreme Court may adopt an answer*, St. Louis Lawyer (August 2003)
- 2002 Article, *Contacts with Agents and Former Agents of Represented Entities: The Missouri anti-contact rule past, present, and future*, St. Louis Lawyer (October 2002)
- 1998 Note, *The Jeffersonian Myth in Supreme Court Seditious Jurisprudence*, 76 Washington University Law Quarterly 683 (1998)

Podcasts

2012- *Ethics Sound Advice* Podcasts, American Bar Association Litigation Section, available at http://www.americanbar.org/groups/litigation/resources/sound_advice/ethics.html (posts normally monthly)

Blog

2015 Contributor, www.LegalTechnologyToday.com

2012-14 Contributor, www.MissouriEthicsLawyer.com

2008-10 Contributor, www.TheEthicalQuandary.com

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PRESENTATIONS (Not on Client Matters)

On Legal Ethics & Law Practice

- 2016 Presentation, *Ethics*, St. Louis University School of Law Externship Program, St. Louis, Missouri (September 2016)
- 2016 Presentation, *Managing Risk in Partnership Agreements in an Anti-Jewel World*, American Bar Association Webinar (August 2016)
- 2016 Presentation, *Dealing with Ethical Issues in Your Practice, Part II: Ethics and Emerging Technologies*, Missouri Bar Association Telephone Seminar (August 2016)
- 2016 Presentation, *Legal Ethics Boot Camp*, Downey Law Group LLC, St. Louis, Missouri (August 2016)
- 2016 Presentation, *Legal Ethics I and II*, Bar Association of Metropolitan St. Louis, St. Louis, Missouri (June 2016)
- 2016 Presentation, *Litigation Ethics*, U.S. District Court for the Eastern District of Missouri – Northern Division Bench & Bar Seminar, Hannibal, Missouri (June 2016)
- 2016 Presentation, *Ethics at Sunrise – Recent Developments*, Missouri Bar, St. Charles, Missouri (June 2016)
- 2016 Presentation, *Legal Ethics: To Mistakes That Lead to Malpractice*, National Business Institute, Fairview Heights, Illinois (June 2016)
- 2016 Presentation, *Recent Legal Ethics Developments: What Lawyers Need to Know*, Simon Law Firm, P.C., St. Louis, Missouri (June 2016)
- 2016 Presentation, *Dealing with an Opposing Party Who Is Proceeding Pro Se*, Missouri Bar Solo & Small Firm Conference, Lake Ozarks, Missouri (June 2016)
- 2016 Presentation, *Using Technology in Your Practice*, Missouri Bar Solo & Small Firm Conference, Lake Ozarks, Missouri (June 2016)
- 2016 Presentation, *Practical Ethics*, Springfield Bar Association, Springfield, Missouri (June 2016)
- 2016 Presentation, *Recent Legal Ethics Developments: What Lawyers Need to Know*, Springfield Bar Association, Springfield, MO (June 2016)
- 2016 Presentation, *Bad Reviews? Bad Response? Bad Idea!* ABA Law Practice Division Telephone Seminar (June 2016)
- 2016 Presentation, *Legal Ethics Update: Recent Developments in Missouri and Illinois Lawyer Regulation*, Law Library Association of St. Louis, St. Louis, Missouri (June 2016)
- 2016 Panelist, *Let the (Ethical) Games Begin!*, ABA Young Lawyers Division, St. Louis, Missouri (May 2016)

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- 2016 Presentation, *Legal Ethics*, Bar Association of Metropolitan St. Louis 27th Annual Estate Planning Institute, St. Louis, Missouri (April 2016)
- 2016 Presentation, *15 Tips for an Ethical Practice*, Joint CLE Conference of the Jackson County and Williamson County Bar Associations, Carbondale, Illinois (April 2016)
- 2016 Presentation, *Recent Developments in Missouri and Illinois Ethics*, Missouri and Southern Illinois Chapter of the American Board of Trial Advocates, St. Louis, Missouri (April 2016)
- 2016 Presentation, *Legal Ethics: Taking Perspective*, Downey Law Group LLC, St. Louis, Missouri (April 2016)
- 2016 Presentation, *Judicial Ethics*, Missouri Office of State Court Administration, Lake of the Ozarks, Missouri (March 2016)
- 2016 Presentation, *Ethics: What Attorneys Need to Know*, Illinois State Bar Association Advanced Workers Compensation Seminar – 2015, Fairview Heights, Illinois (February 2016)
- 2016 Presentation, *Ethics*, St. Louis University School of Law Externship Program, St. Louis, Missouri (January 2016)
- 2015 Presentation, *Financial Management for Lawyers: Ethically Managing Law Firm Income*, ABA Law Practice Division (December 2015)
- 2015 Presentation, *Do You Really Know Your Client? How to Ethically & Effectively Use Law Practice Managers, Business Analysts, and Client Service Professionals*, ABA Law Practice Division (December 2015)
- 2015 Presentation, *Joint Representations: Avoiding Ethical Issues*, Lorman Education Services Telephone Seminar (December 2015)
- 2015 Presentation, *ARDC Complaints and Professionalism Considerations*, Land of Lincoln Legal Services Family Law Seminar, Collinsville, Illinois (November 2015)
- 2015 Presentation, *Legal Ethics: Keeping Lawyers Out of Trouble*, Missouri Lawyers Assistance Program (MOLAP) Conference, Chesterfield, Missouri (November 2015)
- 2015 Presentation, *The Ethics of Addressing Latent Sources of Corporate Liability*, Georgetown University Hotel & Lodging Legal Summit, Washington, DC (November 2015)
- 2015 Presentation, *Ethics of Cloud Computing*, Missouri Bar LexPort 2015, St. Charles, Missouri (October 2015)
- 2015 Presentation, *Legal Ethics & Technology*, Missouri Bar LexPort 2015, St. Charles, Missouri (October 2015)
- 2015 Presentation, *Ethics*, Illinois State Bar Association Advanced Workers Compensation Seminar – 2015, Fairview Heights, Illinois (October 2015)
- 2015 Presentation, *Legal Ethics Obligations in E-Discovery*, Bar Association of Metropolitan St. Louis Fourth Annual E-Discovery Symposium, St. Louis, Missouri (October 2015)

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- 2015 Presentation, *Technology for the Mobile Lawyer*, Bar Association of Metropolitan St. Louis, St. Louis, Missouri (September 2015)
- 2015 Presentation, *Ethics Essentials for Staff and Outside Insurance Defense Counsel*, American Bar Association Tort & Insurance Practice Section, Philadelphia, Pennsylvania (September 2015)
- 2015 Presentation, *Nine Ways to Practice Smarter Not Harder*, Illinois State Bar Association, Fairview Heights, Illinois (September 2015)
- 2015 Presentation, *Ethics*, St. Louis University School of Law Externship Program, St. Louis, Missouri (September 2015)
- 2015 Presentation, *Legal Ethics & Technology*, Bar Association of Metropolitan St. Louis, St. Louis, Missouri (June 2015)
- 2015 Presentation, *Law Firm Succession Planning*, Missouri Association of Trial Attorneys, Lake of the Ozarks, Missouri (June 2015)
- 2015 Presentation, *Ethics of Running a Law Practice in a Mobile World*, ALA Chicago Chapter, Chicago, Illinois (June 2015)
- 2015 Presentation, *The Role of a Lawyer and Legal Ethics*, Duke TIPS Program, St. Louis, Missouri (June 2015) (Two presentations)
- 2015 Presentation, *The Office: Are You Mother Goose?*, Missouri Bar Solo & Small Firm Conference, Branson, Missouri (June 2015)
- 2015 Presentation, *Law Firm Succession Planning: Ethical Issues in Retiring, Winding Down, Selling or Leaving a Law Practice*, Missouri Bar Solo & Small Firm Conference, Branson, Missouri (June 2015)
- 2015 Presentation, *Trial Advocacy – Ethics & Professionalism*, American College of Trial Lawyers, St. Louis, Missouri (June 2015)
- 2015 Presentation, *The Lawyer's Pen as Mighty Client-Finder: Writing for Business Development*, Illinois State Bar Association Telephone Seminar (June 2015)
- 2015 Presentation, *Ethics & Integrity: How to Develop and Lead as a Lawyer With a Stellar Personal Brand Presence – in Person and in Social Media/Advertising*, ABA Law Practice Division (June 2015)
- 2015 Presentation, *15 Tips for an Ethical Law Practice*, Illinois State Bar Association Webinar (May 2015)
- 2015 Presentation, *Social Media: The Impact on Lawyer Ethics, Malpractice, and Professionalism*, Missouri Bar Association Telephone Seminar (May 2015)
- 2015 Moderator, *Real World Ethical Issues in Pro Bono Practice*, Volunteer Lawyers & Accountants for the Arts, St. Louis, Missouri (May 2015)

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- 2015 Presentation, *Ethical Issues Involving Lawyers Moving Law Firms and Law Firm Breakups*, US Arbitration & Mediation, Collinsville, Illinois (May 2015)
- 2015 Presentation, *IPRP Underwriting Meetings Seminar*, London, England (April 2015)
- 2015 Presentation, *Ethics of Cloud Computing*, ABA Law Practice Division Telephone Seminar (April 2015)
- 2015 Presentation, *Cloudy with a Chance of Ethics – Making Educated Decisions When Choosing Cloud Services*, ABA TECHSHOW, Chicago, Illinois (April 2015)
- 2015 Presentation, *Legal Ethics of Sex and Drugs*, Bar Association of Metropolitan St. Louis, St. Louis, Missouri (April 2015)
- 2015 Presentation, *Ethics for Health Lawyers*, St. Louis Association of Health Lawyers, St. Louis, Missouri (April 2015)
- 2015 Presentation, *Appeal to Your Clients w/ Great Law Marketing*, Unidev, St. Louis, Missouri (March 2015)
- 2015 Presentation, *Cloud Computing Issues that Trip Lawyers Up*, American Bar Association Telephone Seminar (March 2015)
- 2015 Presentation, *Running an Ethical Law Practice in a Mobile World*, Greater Chicago Chapter of the Association of Legal Administrators, Chicago, Illinois (March 2015)
- 2015 Presentation, *Developments in Legal Ethics and Technology*, Missouri Bar Spring Committee Meetings, Jefferson City, Missouri (March 2015)
- 2015 Presentation, *Ethics*, Illinois State Bar Association Advanced Workers Compensation – 2015, Fairview Heights, Illinois (February 2015)
- 2015 Presentation, *Ethics and Cloud Computing: Cloud Computing Fundamentals for Lawyers*, ABA Center for Professional Responsibility Telephone Seminar (January 2015)
- 2015 Presentation, *Legal Project Management Stage 1: Introduction & Engaging with the Client*, American Bar Association Telephone Seminar (January 2015)
- 2015 Presentation, *Identifying and Resolving Conflicts of Interest for the Large Firm Lawyer*, Armstrong Teasdale LLP, St. Louis, Missouri (January 2015)
- 2014 Presentation, *The Lawyer's Guide to Records Management and Retention*, American Bar Association Law Practice Division Telephone Seminar (December 2014)
- 2014 Presentation/Moderator, *The Ethics of Practice Management: Playing by the Rules*, Missouri Bar Telephone Seminar (December 2014)
- 2014 Presentation, *Legal Ethics*, Land of Lincoln Legal Services Family Law Seminar, Collinsville, Illinois (November 2014)

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- 2014 Presentation, *The Interplay Between Ethics and LPL Claims and Protecting Against Damages from Companion Ethics Cases*, American Conference Institute's Advanced Forum on LPL/Legal Malpractice, New York, New York (November 2014)
- 2014 Presentation, *Limits on Lawyer Communications with Non-Lawyers*, Armstrong Teasdale (November 2014)
- 2014 Presentation, *Cyber Security Issues Facing Intellectual Property Law Firms*, Intellectual Property Risk Preferred group, Las Vegas, Nevada (November 2014)
- 2014 Presentation, *Trial Lawyers' Use of Social Media*, District of Connecticut Bench-Bar Conference, Portland, Connecticut (October 2014)
- 2014 Presentation, *The Ethics of Negotiation*, USA&M, St. Louis, Missouri (October 2014)
- 2014 Presentation, *The Legal Ethics of Technology 2014*, Missouri Bar's LexPort 2014, St. Charles, Missouri (October 2014)
- 2014 Presentation, *12 Ethics Tips for All Lawyers and Social Media and Its Impact on Lawyer Ethics, Malpractice, and Professional Responsibility*, Illinois State Bar Association ISBA's Solo & Small Firm Practice Institute, Fairview Heights, Illinois (September 2014)
- 2014 Presentation, *Current Issues in Legal Ethics & Emerging Technologies*, Missouri Bar Telephone Seminar, with rebroadcasts due to technical problems (September 2014)
- 2014 Presentation, *"I'll Practice Forever!" is Not Succession Planning: Ethical Issues in Retiring, Winding Down, Selling or Leaving a Law Practice*, Missouri Bar Annual Meeting, Kansas City, Missouri (September 2014)
- 2014 Presentation, *Legal Ethics I and II: Technology Issues & Ethics in the News*, Bar Association of Metropolitan St. Louis (June 2014)
- 2014 Presentation, *Legal Ethics Update 2014*, Armstrong Teasdale LLP, St. Louis, Missouri (June 2014)
- 2014 Presentation, *Multijurisdictional Practice Issues for Traveling Lawyers*, Armstrong Teasdale LLP, St. Louis, Missouri (June 2014)
- 2014 Presentation, *Legal Ethics & Emerging Technologies*, Hispanic Bar Association of St. Louis, Louis, Missouri (June 2014)
- 2014 Presentation, *Legal Ethics & Emerging Technologies*, Bryan Cave LLP, St. Louis, Missouri (June 2014)
- 2014 Presentation, *"I'll Practice Forever!" is Not Succession Planning: Ethical Issues in Retiring, Winding Down, Selling or Leaving a Law Practice*, St. Louis County Bar Association, St. Louis, Missouri (June 2014)
- 2014 Presentation, *Legal Ethics Lessons from My Dog*, Simon Law Firm Annual Seminar, St. Louis, Missouri (June 2014)

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- 2014 Presentation, *Dealing with Difficult Opposing Counsel*, Law Library Association of St. Louis, St. Louis, Missouri (June 2014)
- 2014 Presentation, *Professional Ethics for Estate Planning Professionals*, St. Louis University Planned Giving Department, St. Louis, Missouri (June 2014)
- 2014 Presentation, *Teaching Ethics to Practicing Lawyers*, ABA National Conference on Professional Responsibility, Long Beach, California (May 2014)
- 2014 Presentation, *Social Media: The Impact on Lawyer Ethics, Malpractice, and Professionalism*, Missouri Bar Association Telephone Seminar (May 2014)
- 2014 Presentation, *Serving on Non-Profit Boards*, Volunteer Lawyers & Accountants for the Arts, St. Louis, Missouri (May 2014)
- 2014 Presentations, *The Ethics of Talking Online*, ABA Law Practice Division Law Firm Marketing Strategies Conference, St. Louis, Missouri (May 2014)
- 2014 Presentation, *Practical Lessons in Leadership*, ALI CLE-ABA Law Practice Division Telephone Seminar (April 2014)
- 2014 Presentation, *Ethical Issues with a Multijurisdictional Practice*, Illinois State Bar Association, Bloomington, Illinois (April 2014)
- 2014 Presentation, *The Top Ten Risk Management Issues Every Estate Planning Attorney Needs to Understand!*, Bar Association of Metropolitan St. Louis 25th Annual Estate Planning Institute, St. Louis, Missouri (April 2014)
- 2014 Presentation, *Legal Ethics & Emerging Technologies*, Shands Elbert Gianoulakis & Giljum, LLP, St. Louis, Missouri (April 2014)
- 2014 Presentation, *Legal Privilege I and II*, Missouri Association of Probate and Associate Circuit Judges Annual Meeting, Lake Ozarks, Missouri (April 2014)
- 2014 Presentation, *Spotting Current Client Conflicts of Interest in Patent Practice from Litigation to Opinions to Prosecution*, American Intellectual Property Law Association Telephone Seminar (April 2014)
- 2014 Presentation, *Trust and Estate Ethics*, Washington University School of Law Advanced Estate Planning & Drafting Course (March 2014)
- 2014 Presentation, *Avoiding Potential Legal & Business Conflicts of Interest When Developing New Clients and New Legal Work - Key Ethical Issues re: Business, Client Development and "Sales" for Lawyers*, Business Development Inc. Telephone Seminar (March 2014)
- 2014 Presentation, *Plenary Session: Inoculating Against Conflicts of Interest: What You Didn't Learn in Your Law School Ethics Class*, ABA Litigation Section Corporate Counsel CLE Seminar, Rancho Mirage, California (February 2014)
- 2014 Presentation, *Ethics*, St. Louis University School of Law Externship Program, St. Louis, Missouri (January 2014)

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- 2013 Keynote Presentation, *The Role of Professional Development Professionals for a Changing Legal Profession*, PDC, Washington, DC (December 2013)
- 2013 Presentation/Moderator, *The Ethics of Practice Management: Playing by the Rules*, Missouri Bar Telephone Seminar (December 2013)
- 2013 Presentation, *Legal Ethics*, Land of Lincoln Legal Services Family Law Seminar, Collinsville, Illinois (November 2013)
- 2013 Presentation, *Ethics*, St. Louis University Business Associations Course, St. Louis, Missouri (November 2013)
- 2013 Presentation, *Who's Your Client*, Metropolitan Municipal Attorneys Association, St. Louis, Missouri (October 2013)
- 2013 Presentation, *Ten Ethical Considerations with Pro Bono Legal Work*, Legal Services of Eastern Missouri, St. Louis, Missouri (October 2013)
- 2013 Presentation, *Ethical Issues in Malpractice Litigation*, Missouri Bar, St. Louis, Missouri (October 2013)
- 2013 Presentation, *Using the Internet and Social Media*, BJC HealthCare, St. Louis, Missouri (October 2013)
- 2013 Presentation, *Ethics: Using the Internet and Social Media*, Illinois State Bar Association, Fairview Heights, Illinois (October 2013)
- 2013 Moderator, *My Partners' Keeper: Legal Ethics for Lawyer Supervisors and Supervised Lawyers*, ABA Law Practice Division/ABA Young Lawyers Division, Phoenix, Arizona (October 2013)
- 2013 Presentation, *Dealing with the Media on Client Matters*, Congress of School Attorneys, Jefferson City, Missouri (October 2013)
- 2013 Presentation, *Starting and Ending Lawyer-Client Relationships*, Illinois Credit Union League, Oak Brook, Illinois (September 2013)
- 2013 Presentation, *"I'll Practice Forever!" Is Not Succession Planning: Ethical Issues in Retiring, Winding Down, Selling or Leaving a Law Practice*, Missouri Bar, Columbia, Missouri (September 2013)
- 2013 Presentation, *Ethics*, St. Louis University School of Law Externship Program, St. Louis, Missouri (August 2013)
- 2013 Presentation, *Attorney Conduct in Blogging, Social Media and Listservs*, Association of Professional Responsibility Lawyers, San Francisco, California (August 2013)
- 2013 Presentation, *Ethics*, Bar Association of Metropolitan St. Louis (June 2013)
- 2013 Presentation, *The Lawyer Who Kicked the Hornet's Nest: Ethical Rules for Litigating in the Court of Public Opinion*, Armstrong Teasdale LLP, St. Louis, Missouri (June 2013)

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- 2013 Presentation, *Ethical Issues in Trust and Estate Practice*, 25th Annual Advanced Estate Planning Techniques, NBI, St. Louis, Missouri (June 2013)
- 2013 Presentation, *Building a Safe, Successful & Ethical Law Practice*, St. Louis University, St. Louis, Missouri (June 2013)
- 2013 Presentation, *Conflicts of Interest*, Evans & Dixon PC, St. Louis, Missouri (June 2013)
- 2013 Presentation, *Legal Billing for the 21st Century Lawyer: The New Normal*, ABA CLE (June 2013)
- 2013 Presentation, *Ethics for the Business Lawyer: Conflicts of Interest*, ALI CLE Telephone Seminar (June 2013)
- 2013 Presentation, *Ethical Rules for Litigating in the Court of Public Opinion*, Armstrong Teasdale LLP, Washington, DC (June 2013)
- 2013 Presentation, *Protecting Client Information: Lawyer-Client Privilege and Confidentiality*, Law Library Association of St. Louis, St. Louis, Missouri (May 2013)
- 2013 Presentation, *Ethics for In-House Counsel: Client Identification, Conflicts and Confidentiality*, Bar Association of Metropolitan St. Louis Corporate Counsel Institute, St. Louis, Missouri (May 2013)
- 2013 Presentation, *Social Media: The Impact on Lawyer Ethics, Malpractice, and Professionalism*, Missouri Bar Telephone Seminar (May 2013)
- 2013 Presentation, *Ethics for the Business Lawyer: Confidentiality, Negotiation Ethics, and Multijurisdictional Practice*, ALI CLE Telephone Seminar (May 2013)
- 2013 Presentation, *Ethical Issues Arising from the Use of Emerging Technologies*, Missouri Bar Local Government and Technology Committees Joint Meeting, Jefferson City, Missouri (May 2013)
- 2013 Presentation, *Emerging Legal Issues with the Interactive Web: Ethics, Social Media, Privacy, Cloud Computing, and More*, AB InBev, St. Louis, Missouri (May 2013)
- 2013 Presentation, *What's New in Legal Ethics 2012-13*, Bar Association of Metropolitan St. Louis, St. Louis, Missouri (April 2013)
- 2013 Presentation, *Multijurisdictional Practice*, Illinois State Bar Association, Chicago, Illinois (April 2013)
- 2013 Presentation, *Legal Ethics & Social Media*, Danna McKittrick, P.C., St. Louis, Missouri (March 2013)
- 2013 Presentation, *Multistate Tax Commission Legal Ethics: Identifying Clients & Protecting Communications*, Multistate Tax Commission Meeting, St. Louis, Missouri (March 2013)
- 2013 Presentation, *10 Risk Management Tips for Improving Your Practice (and Life)*, Bar Association of Metropolitan St. Louis, St. Louis, Missouri (February 2013)

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- 2013 Presentation, *Ethics*, Illinois State Bar Association Advanced Workers Compensation – 2013, Fairview Heights, Illinois (February 2013)
- 2013 Presentation, *The Ethics of Technology*, United States Arbitration and Mediation, Midwest Inc., St. Louis, Missouri (January 2013)
- 2013 Presentation, *Trust and Estate Ethics*, Washington University School of Law Advanced Estate Planning & Drafting Course (January 2013)
- 2013 Presentation, *Lawyers on Boards: Marketing and Ethics Issues*, Armstrong Teasdale LLP, St. Louis, Missouri (January 2013)
- 2012 Presentation/Moderator, *The Ethics of Practice Management: Playing by the Rules*, Missouri Bar Telephone Seminar (December 2012)
- 2012 Presentation, *Ethics for Local Government Attorneys: Communications with Clients and the Media*, Missouri Bar Local Government Committee, Jefferson City, Missouri (November 2012)
- 2012 Presentation, *Confidentiality, Conflicts, and Dangerous Clients*, Association of Women Lawyers of Greater Kansas City, Kansas City, Missouri (October 2012)
- 2012 Presentation, *The Ethics of Ending Attorney-Client Relationships*, American Bar Association Telephone Seminar (October 2012)
- 2012 Presentation, *Advertising Rules, Marketing, and Advertising Strategies*, Missouri Bar Telephone Seminar (October 2012)
- 2012 Presentation, *The Legal Ethics of Technology*, Missouri Bar's LexPort 2012, St. Charles, Missouri (September 2012)
- 2012 Presentation, *Legal Ethics: Conflicts of Interest in Case Studies*, National Business Institute Webinar (September 2012)
- 2012 Presentation, *Social Media Ethics Game*, Association of Professional Responsibility Lawyers, Chicago, Illinois (August 2012)
- 2012 Presentation, *Ethics of Lawyer Advertising*, Bar Association of Metropolitan St. Louis (BAMSL), St. Louis, Missouri (June 2012)
- 2012 Presentation, *Delicate Balancing Act: Attorney-Client Privilege, Attorney Work Product, and Technology*, National Association of College & University Attorneys (NACUA), Chicago, Illinois (June 2012)
- 2012 Presentation, *The Ethics of Negotiation*, Armstrong Teasdale LLP, St. Louis, Missouri (June 2012)
- 2012 Presentation, *Who Is the Client and Reporting by Constituents*, Society of Corporate Secretaries & Governance Professionals, St. Louis, Missouri (June 2012)
- 2012 Presentation, *Ethics Update 2012*, Armstrong Teasdale LLP, St. Louis, Missouri (June 2012)

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- 2012 Presentation, *“Dirty Jobs” - The Relationship Between Inside and Outside Counsel: Alternative Fees*, Armstrong Teasdale LLP, Kansas City, Missouri (June 2012)
- 2012 Presentation, *Ethics Part I—Fees, Fee Sharing, and Liens and Ethics, Part II—Conflicts of Interest*, Simon Law Firm Annual Seminar, St. Louis, Missouri (June 2012)
- 2012 Presentation, *Ethics for the Business Lawyer*, ALI CLE Telephone Seminar (June 2012)
- 2012 Presentation, *Ethics and Social Media*, New York City Bar, International Legal Technology Association (ILTA) & West LegalEdcenter CFO/CIO/COO Forum, New York (June 2012)
- 2012 Presentation, *Conflicts for the Business Lawyer*, American Law Institute | American Bar Association (ALI-ABA) Telephone Seminar (May 2012)
- 2012 Presentation, *Effective Ethical Screens: Practical Tips for Avoiding Risks*, Hildebrandt Law Firm General Counsel Roundtable, Dallas, Texas (May 2012)
- 2012 Presentation, *Legal Ethics in Missouri: Attorney-Client Privilege and Work Product Protection” and “Engagement Agreements,”* Lorman Education Services, St. Louis, Missouri (May 2012)
- 2012 Presentation, *Ethics of Social Networking*, ABA Section of State and Local Government Law Telephone Seminar (April 2012)
- 2012 Presentation, *Legal Marketing in a Web 2.0 Environment: Top Ten Mistakes to Avoid*, ABA Litigation Section, Washington, DC (April 2012)
- 2012 Presentation, *Facebook or Face Plant? Limiting Ethical and Legal Risks from Social Networking*, Armstrong Teasdale Litigation Practice Group Associates, St. Louis, Missouri (April 2012)
- 2012 Presentation, *Ethical Considerations in Law Firm Breakups*, Madison County Bar Association, Collinsville, Illinois (April 2012)
- 2012 Presentation, *What Can Be Discovered? The Attorney-Client Privilege and Work Product Protection*, Family Business Legal Toolkit, St. Louis, Missouri (April 2012)
- 2012 Presentation, *Handing Down the Family Business: Ethical Lessons for Trust & Estate Counsel*, Peoples National Bank (April 2012)
- 2012 Presentation, *Ethics Update*, Bar Association of Metropolitan St. Louis, St. Louis, Missouri (April 2012)
- 2012 Presentation, *The “Big Bang Theory” Comes to Legal Fees and Litigation Funding*, ACC-St. Louis Chapter and Armstrong Teasdale LLP, St. Louis, Missouri (March 2012)
- 2012 Presentation, *When Consent Is Not Enough: Ethical Issues in Joint Representations*, American Law Institute | American Bar Association (ALI-ABA) Telephone Seminar (March 2012)
- 2012 Presentation, *Privilege for Employment Lawyers*, Bar Association of Metropolitan St. Louis Employment Law Section, St. Louis, Missouri (March 2012)

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- 2012 Presentation, *Business Successors and the Transpositional Attorney-Client Relationship*, Armstrong Teasdale LLP Corporate Services Group, St. Louis, Missouri (February 2012)
- 2012 Presentation, *Ethical Pitfalls in Client Billing and Fee Collection*, Strafford Publications Telephone Seminar (February 2012)
- 2012 Presentation, *Privilege*, BJC Compliance Department, St. Louis, Missouri (February 2012)
- 2012 Presentation, *Ethics*, St. Louis University School of Law Externship Program, St. Louis, Missouri (January 2012)
- 2011 Presentation/Moderator, *The Ethics of Practice Management: Playing by the Rules*, Missouri Bar Telephone Seminar (December 2011)
- 2011 Presentation, *Who Is Your Client*, Missouri Bar Annual Government Practice Institute, Jefferson City, Missouri (December 2011)
- 2011 Presentations, *Say What to Whom, When? Ex Parte Communications and Related Discovery Concerns* and *Rule Book, Law Book, Facebook: the Ethics of Social Media*, Missouri Bar Ethics In Litigation Program, St. Louis, Missouri (November 2011)
- 2011 Presentation, *Ethics - It Does Not Require a Wizard*, National Association of Regulatory Utility Commissioners (NARUC) Annual Meeting, St. Louis, Missouri (November 2011)
- 2011 Presentation, *What Estate Planning Lawyers Need to Know to Avoid Malpractice Claims, Peoples National Bank*, St. Louis, Missouri (November 2011)
- 2011 Presentation, *Associate Business Development Training*, ABA Law Firm Marketing Strategies Conference, Philadelphia, Pennsylvania (November 2011)
- 2011 Presentation, *Effects of Rankings & Ratings on the Legal Profession*, ABA Law Firm Marketing Strategies Conference, Philadelphia, Pennsylvania (November 2011)
- 2011 Presentation, *Technology and Law Firm Risk Management*, LeClairRyan, Richmond, Virginia (October 2011)
- 2011 Presentation, *Social Media, Intellectual Property, and Ethics*, Missouri Bankers Association Banking Legal Issues Seminar, Columbia, Missouri (October 2011)
- 2011 Presentation, *Ethics—An Unhealthy Situation*, St. Louis Health Lawyers Association, St. Louis, Missouri (October 2011)
- 2011 Presentation, *The Ethics of Preparing Your Case and Dealing with Difficult Adversaries*, Bar Association of Metropolitan St. Louis Product Liability Seminar, St. Louis, Missouri (September 2011)
- 2011 Presentation, *Ethics in a Wireless World*, Association of Legal Administrators Webinar (September 2011)
- 2011 Presentation, *Ethics*, St. Louis University School of Law Externship Program, St. Louis, Missouri (August 2011)

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- 2011 Presentation, *Ethics and Ending the Attorney-Client Relationship*, Strafford Publications Telephone Seminar (August 2011)
- 2011 Presentation, *eAttorney, miAttorney: How Technology has Changed Communication and Collaboration with Clients*, ABA Annual Meeting, Toronto, Canada (August 2011)
- 2011 Presentation, *A Saucerful of (Corporate) Secrets/Keeping Corporate Communications Privileged*, Armstrong Teasdale LLP, St. Louis, Missouri (July 2011)
- 2011 Presentation, *Ethics in the Wireless World*, ALA Mile High Chapter, Denver, Colorado (July 2011)
- 2011 Presentation, *Succession Planning for Solo and Small Firms Including How to Ethically Sell a Law Practice*, Bar Association of Metropolitan St. Louis, St. Louis, Missouri (June 2011)
- 2011 Presentation, *Ethical Issues in Trust and Estate Practice*, 23rd Annual Advanced Estate Planning Techniques, NBI, St. Louis, Missouri (June 2011)
- 2011 Presentation, *Conflicts of Interest for the Business Lawyer*, American Law Institute | American Bar Association (ALI-ABA) Telephone Seminar (June 2011)
- 2011 Presentation, *Ethics in a Wireless World*, Association of Legal Administrators—Gateway Chapter, St. Louis, Missouri (June 2011)
- 2011 Presentation, *Ethics in a Wireless World*, Louisville Bar Association, Louisville, Kentucky (June 2011)
- 2011 Presentation, *Ethics Update of Attorneys and Accountants*, Edward Jones 2011 Tax and Legal Continuing Education Seminar, St. Louis, Missouri (May 2011)
- 2011 Presentation, *Ethics and Board Membership*, Volunteer Lawyers and Accountants for the Arts, St. Louis, Missouri (May 2011)
- 2011 Panelist, *Large Firm Management Roundtable*, ABA Law Practice Management Section Meeting, Palm Springs, California (May 2011)
- 2011 Presentation, *Risk Management*, A Professional Liability Seminar for Large Law Firms, CNA, London, England (May 2011)
- 2011 Presentation, *Protecting against the Risks of Social Networking*, Hildebrandt Institute’s Law Firm General Counsel Roundtable, Boston, Massachusetts (May 2011)
- 2011 Presentation, *Teaching New Lawyers About the Law Firm as a Business*, NALP 2011 Annual Education Conference, Palm Springs, California (April 2011)
- 2011 Presentation, *Legal Ethics for Whistleblower/Qui Tam Claims*, KCMBA, Kansas City, Missouri (April 2011)
- 2011 Presentation, *The Promise of Technology: New Challenges and Opportunities for Delivering Legal Services*, The University of the Pacific, McGeorge School of Law Conference “Ethics

- 20/20—Globalization, Technology and Transforming the Practice of Law,” Sacramento, California (April 2011)
- 2011 Presentation, *Ethical Pitfalls & Important Terms in the Purchase/Sale of a Law Practice*, United States Arbitration and Mediation, Midwest Inc., St. Louis, Missouri (April 2011)
- 2011 Presentation, *Ethics in Bankruptcy Practice*, Missouri Bar Annual Bankruptcy Institute, Cape Girardeau, Missouri (March 2011)
- 2011 Presentation, *Regulation of Lawyer Advertising*, Hinshaw & Culbertson LLP Marketing Department, Chicago, Illinois (March 2011)
- 2011 Presentation, *Trust and Estate Ethics*, Washington University School of Law Estate Planning & Drafting Course (March 2011)
- 2011 Presentation, *Ethics and Legal Process Outsourcing*, Telephone Seminar sponsored by New York Law Journal and Pangea 3 (March 2011)
- 2011 Presentation, *Ethics*, Bar Association of Metropolitan St. Louis Labor & Employment Section, Clayton, Missouri (February 2011)
- 2011 Presentation, *On the Horizon: Is Susskind Right? Technology and the Future of Large Law Firms*, Legal Malpractice & Risk Management Conference, Chicago, Illinois (February 2011)
- 2011 Moderator, *The Growing Threats to Client (and Firm) Data—Managing Technology to Meet the Challenges*, Legal Malpractice & Risk Management Conference, Chicago, Illinois (February 2011)
- 2011 Presentation, *Ethics in Bankruptcy Practice*, Missouri Bar Annual Bankruptcy Institute, St. Louis, Missouri (February 2011)
- 2011 Presentation, *Social Media and Legal Ethics, Consumer Protection Conference*, ABA Antitrust Section, Washington, D.C. (February 2011)
- 2011 Presentation, *Panel discussion on Ethics of Pro Bono Work*, Bar Association of Metropolitan St. Louis Pro Bono Day, St. Louis, Missouri (January 2011)
- 2011 Presentation, *Ethics Rules for Trust Accounting with Precautions against Fraud and Money Laundering*, West LegalEdcenter telephone seminar (January 2011)
- 2011 Presentation, *Making Partner: Finding Your Equation for Success*, American Bar Association Telephone Seminar (January 2011)
- 2010 Presentation/Moderator, *The Ethics of Practice Management: Playing by the Rules*, Missouri Bar Telephone Seminar (December 2010)
- 2010 Presentation, *Ethics & E-Discovery*, Missouri Bar Labor & Employment Law Symposium, Columbia, Missouri (November 2010)
- 2010 Presentation, *Who’s the Client? Ethical Dilemmas of In-House Counsel*, Missouri Bar, St. Louis, Missouri (October 2010)

Curriculum Vitae of Michael P. Downey

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- 2010 Presentation, *Advertising Rules, Marketing, and Advertising Strategies*, Missouri Bar Webinar (October 2010)
- 2010 Presentation, *Client Billing and Fee Collection: Ethical Considerations*, Stafford Publications Telephone Seminar (October 2010)
- 2010 Presentation, *Ethical Screens*, American Law Institute | American Bar Association (ALI-ABA) Telephone Seminar (October 2010)
- 2010 Presentation, *Risk Challenges of Changing Technology*, Hildebrandt Institute's Law Firm General Counsel Roundtable, Minneapolis, Minnesota (October 2010)
- 2010 Presentation, *Ethics in the Wireless World*, Association of Legal Administrators Region IV Meeting, Dallas, Texas (October 2010)
- 2010 Presentation, *Ethical Pitfalls for Solos*, American Bar Association Smart Soloing School Webcast (September 2010)
- 2010 Presentation, *Ethical Considerations Arising in the Simultaneous Defense of Collateral Criminal, Regulatory, Employment and Civil Neglect Claims*, DRI Nursing Home/ALF Litigation Conference, Chicago, Illinois (September 2010)
- 2010 Presentation, *Succession Planning and Business Survival*, West LegalEdcenter 2nd Annual Midwestern Law Firm Management Conference, Chicago, Illinois (September 2010)
- 2010 Presentation, *Changing Technology: Opportunities and Challenges*, Hildebrandt Institute's 9th Annual Law Firm General Counsels' Forum, New York, New York (September 2010)
- 2010 Presentation, *Fiduciaries: Are You One and What Does That Mean*, Estate Planning Counsel of St. Louis (September 2010)
- 2010 Presentations, *Law Firm Management and Law Firm Risk Management*, NBI Video Seminars, filmed in Minneapolis, Minnesota (August 2010)
- 2010 Presentation, *Hot Ethics Issues for Young Trial Lawyers (and the Young at Heart)*, ABA Criminal Justice Section, ABA Annual Meeting, San Francisco, California (August 2010) (Presidential CLE Centre Program)
- 2010 Presentation, *Food for Thought on the New Rules*, Illinois ARDC Hearing Board Meeting, Springfield, Illinois (July 2010)
- 2010 Presentation, *The Ethics of Social Media: Facebook, Twitter, LinkedIn*, Bar Association of Metropolitan St. Louis, St. Louis, Missouri (June 2010)
- 2010 Presentation, *Ethical Issues in Trust and Estate Practice*, 22nd Annual Advanced Estate Planning Techniques, NBI, St. Louis, Missouri (June 2010)
- 2010 Presentation, *Ethics: Managing Relationships with Troubled Clients in Fuzzy Situations*, Missouri Bar Annual Real Estate Institute, Springfield, Missouri (June 2010)

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- 2010 Presentation, *Ethics CLE—Confidentiality and Privilege*, Hinshaw & Culbertson LLP, St. Louis, Missouri (June 2010)
- 2010 Presentation, *How to Ethically Market Your Law Practice*, Simon Law Firm program (June 2010)
- 2010 Presentation, *Ethics: Managing Relationships with Troubled Clients in Fuzzy Situations*, Missouri Bar Annual Real Estate Institute, Columbia, Missouri (June 2010)
- 2010 Presentation, *Ethical Issues Facing Bankruptcy Practitioners*, United States Bankruptcy Court for the Eastern District of Missouri, St. Louis, Missouri (June 2010)
- 2010 Presentation, *Legal Ethics and Risk Management in Turbulent Economic Times*, Louisville Bar Association, Louisville, Kentucky (June 2010)
- 2010 Presentation, *Conflicts of Interest for the Business Lawyer*, American Law Institute | American Bar Association (ALI-ABA) Telephone Seminar (June 2010)
- 2010 Presentations, *Legal Ethics in Missouri: Attorney-Client Privilege and Work-Product Protections and Engagement Letters*, Lorman Education Services, St. Louis, Missouri (June 2010)
- 2010 Presentation, *Protecting Client Confidences—It's Not That Simple*, St. Louis Law Firm Management Roundtable, Hinshaw & Culbertson LLP, St. Louis, Missouri (June 2010)
- 2010 Presentation, *Protecting Client Confidences—It's Not That Simple*, Kansas City Law Firm Management Roundtable, Hinshaw & Culbertson LLP, Kansas City, Missouri (June 2010)
- 2010 Presentation, *The Ethics of Social Media: Facebook, Twitter, LinkedIn*, Bar Association of Metropolitan St. Louis Bench & Bar, Lake Ozarks, Missouri (June 2010)
- 2010 Presentation, *Outsourcing and Ethical Issues*, International Trademark Association, Boston, Massachusetts (May 2010)
- 2010 Presentation, *The Supreme Court's Role in Attorney Disciplinary Matters*, Mound City Bar Association, St. Louis, Missouri (May 2010)
- 2010 Presentation, *Social Media: What's New, What's Dangerous, and What's Ethical?*, 29th Annual Corporate Counsel Institute, Bar Association of Metropolitan St. Louis, St. Louis, Missouri (May 2010)
- 2010 Moderator, *The Ethics of Starting Your Own Firm*, American Bar Association Center for Professional Responsibility Telephone Seminar (May 2010)
- 2010 Presentation, *Ethics for the Business Lawyer: Confidentiality, Negotiation Ethics, and Multijurisdictional Practice*, American Law Institute | American Bar Association (ALI-ABA) Telephone Seminar (April 2010)
- 2010 Presentation, *Legal Ethics and Social Media*, Hinshaw & Culbertson LLP School Law Group, Chicago, Illinois (April 2010)
- 2010 Presentation, *Ethics for Private Client Lawyers ... and Others*, Bryan Cave LLP (April 2010)

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- 2010 Presentation, *The Ethics of Getting Paid*, West LegalEdcenter Webinar (March 2010)
- 2010 Presentation, *Ethics for Public Defenders*, Missouri State Public Defender Office, 22nd Circuit (St. Louis City), St. Louis, Missouri (March 2010)
- 2010 Presentation, *Legal Ethics and Social Media*, Bar Association of Metropolitan St. Louis, St. Louis, Missouri (March 2010)
- 2010 Presentation, *Duty of Confidentiality under the New RPC 1.6*, Hinshaw & Culbertson, LLP, Chicago, Illinois (March 2010)
- 2010 Presentation, *Ethical Traps in the Use of Social Networking Sites Online*, 39th Annual Conference on Environmental Law, American Bar Association Section of Environment, Energy, and Resources, Salt Lake City, Utah (March 2010)
- 2010 Presentation, *Ethics (Paralegal Ethics and Billable Hours)*, St. Louis Association of Legal Assistants (March 2010)
- 2010 Presentation, *Stump the Panel and Managing Client and Law Firm Data, and What Gives When Client and Firm Policies Conflict*, Legal Malpractice & Risk Management Conference, Chicago, Illinois (March 2010)
- 2010 Presentation, *Conflicts of Interest: What Every Lawyer Needs To Know*, American Law Institute | American Bar Association (ALI-ABA) Telephone Seminar (February 2010)
- 2010 Presentation, *Trust and Estate Ethics*, Washington University School of Law Estate Planning & Drafting Course (February 2010)
- 2010 Presentation, *Ethics & Risk Management in a Wireless World*, Fox Galvin LLC, St. Louis, Missouri (January 2010)
- 2010 Presentation, *The Duty of Confidentiality Under the New RPC 1.6*, Hinshaw & Culbertson LLP General Counsel Roundtable, Chicago, Illinois (January 2010)
- 2009 Presentation, *Websites and Blogs: the Risks for Law Firms*, PLI Winter Ethic Program—2009, New York, New York (December 2009)
- 2009 Presentation, *The Ethics of Negotiation*, American Law Institute | American Bar Association (ALI-ABA) Telephone Seminar (December 2009)
- 2009 Presentation, *Selling Your Law Practice*, West LegalEdcenter Webinar (December 2009)
- 2009 Presentation, *Ethical Pitfalls for Practitioners*, ABA Connection Telephone Seminar (December 2009)
- 2009 Presentation, *Ethical Risks of Online Communications by Attorneys*, Strafford Publications Telephone Seminar (December 2009)
- 2009 Presentation, *Ethics Issues in a Tight Economy*, American Law Institute | American Bar Association (ALI-ABA) Telephone Seminar (November 2009)

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- 2009 Presentation, *Law Marketing & Advertising Ethics Update—New Rules; New Tools*, ABA Law Practice Management Section Marketing Strategies Conference, Philadelphia, Pennsylvania (November 2009)
- 2009 Panelist, *The 2009 Annual International Conference Plenary Session*, Center for Academic Integrity, Clayton, Missouri (October 2009)
- 2009 Presentation, *Ethics in a Wireless World*, Association of Legal Administrators, St. Louis, Missouri (October 2009)
- 2009 Presentation, *How to Deal with the “Rambo” Litigator: Ethics—It’s Legal, But Is It Right*, National Business Institute, Clayton, Missouri (September 2009)
- 2009 Presentation, *Preventing or Responding to Potential Employee Embezzlement at Law Firms*, ABA Law Practice Management Section Telephone Seminar (September 2009)
- 2009 Presentation, *Claims Against Lawyers by Non-Clients: Identifying and Reducing the Risks*, West LegalEdcenter Webinar (August 2009)
- 2009 Presentation, *Subrogation and Liens in Auto Accident Litigation: Ethics*, National Business Institute, Clayton, Missouri (August 2009)
- 2009 Presentation, *Ethical Conduct in Bankruptcy Proceedings*, National Business Institute Telephone Seminar (August 2009)
- 2009 Presentation, *Publishing and Publicizing Disciplinary Proceedings: Good or Bad?*, National Organization of Bar Counsel/Association of Professional Responsibility Lawyers Joint Program, Chicago, Illinois (August 2009)
- 2009 Presentation, *Ethical Pitfalls in Client Billing and Fee Collection*, Strafford Publications Telephone Seminar (July 2009)
- 2009 Presentation, *Ethical Implications of Marketing in a Web 2.0 World*, ABA Law Practice Management Section Telephone Seminar (July 2009)
- 2009 Presentation, *Business Law from A to Z: Avoiding Ethical Issues*, National Business Institute, Clayton, Missouri (July 2009)
- 2009 Presentation, *Automobile Cases from Start to Finish: Ethical Issues to Beware Of*, Institute for Paralegal Education, St. Louis, Missouri (June 2009)
- 2009 Presentation, *Negotiation Ethics: What Every Lawyer Needs to Know About Something Every Lawyer Does*, Minnesota CLE Webcast (June 2009)
- 2009 Presentation, *The Law Firm as a Business*, Hinshaw & Culbertson LLP, Chicago, Illinois (June 2009)
- 2009 Presentation, *Lawyer Ethics in Troubled Economic Times*, Simon Law Firm Program (June 2009)
- 2009 Presentation, *Lawyer Ethics and Risk Management in an Economic Downturn*, Louisville Bar Association, Louisville, Kentucky (June 2009)

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- 2009 Presentation, *Ethics for the Business Lawyer: Confidentiality, Negotiation Ethics, and Multijurisdictional Practice*, American Law Institute | American Bar Association (ALI-ABA) Telephone Seminar (June 2009)
- 2009 Presentation, *Ethical Issues in Real Estate*, Halfmoon Seminars, Clayton, Missouri (June 2009)
- 2009 Presentation, *Advanced Estate Planning Techniques: Ethical Issues in a Trust & Estate Practice*, National Business Institute, Clayton, Missouri (June 2009)
- 2009 Presentation, *Effective New Business Intake Management*, Thomson Elite Users Conference, San Diego, California (June 2009)
- 2009 Presentation, *The Ethics of Social Networking Sites and Other Electronic Media*, 24th Annual What's New in Legal Ethics and Fee Disputes Seminar, Bar Association of Metropolitan St. Louis, St. Louis, Missouri (June 2009)
- 2009 Presentation, *Managing the Risk of Lateral Movement and Law Firm Mergers*, Hinshaw & Culbertson LLP Law Firm Management Roundtable, St. Louis, Missouri (June 2009)
- 2009 Presentation, *Managing the Risk of Lateral Movement and Law Firm Mergers*, Hinshaw & Culbertson LLP Law Firm Management Roundtable, Kansas City, Missouri (June 2009)
- 2009 Presentation, *Finding a (Fun and Profitable) Niche Practice*, Hinshaw & Culbertson LLP, St. Louis, Missouri (May 2009)
- 2009 Presentation, *Conflicts of Interest for the Business Lawyer*, American Law Institute | American Bar Association (ALI-ABA) Telephone Seminar (May 2009)
- 2009 Presentation, *Ethical Implications of Marketing in a Web 2.0 World: From Facebook to LinkedIn, Websites to Blogs*, ABA Law Practice Management Section and Young Lawyers Division, New Orleans, Louisiana
- 2009 Presentation, *Legal Ethics*, Harpo Inc./LexisNexis, Chicago, Illinois (March 2009)
- 2009 Presentation, *Disciplinary Hearing Officer Training: The Respondent's Perspective*, Missouri Supreme Court Advisory Committee, Columbia, Missouri (March 2009)
- 2009 Presentation, *Lawyer Ethics and Risk Management in an Economic Downturn*, American Law Institute | American Bar Association (ALI-ABA) Telephone Seminar (March 2009)
- 2009 Presentation, *Risk Management and Electronic Advertising—Websites and E-mail*, Legal Malpractice & Risk Management Conference, Chicago, Illinois (March 2009)
- 2009 Presentation, *The Ethics of Billing*, West LegalEdcenter Webinar (February 2009)
- 2009 Presentation, *Reining in Rambo Lawyers*, Missouri Bar Young Lawyers Division, St. Louis, Missouri (February 2009)
- 2009 Presentation, *Trust and Estate Ethics*, Washington University School of Law Estate Planning & Drafting Course (January 2009)

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- 2009 Presentation, *The Ethics of Negotiation*, American Law Institute | American Bar Association (ALI-ABA) Telephone Seminar (January 2009)
- 2008 Presentation, *Conflicts and Solicitation for Lessons in Professional Responsibility: Learned from the Illinois Law Practice of Abraham Lincoln*, Illinois State Bar Association CLE Video Production (taped December 2008)
- 2008 Presentation, *The Ins and Outs of Privilege Reviews*, West LegalEdcenter Webinar (December 2008)
- 2008 Presentation, *Ethical, Effective and Enjoyable Lawyering: Billing Ethics*, DRI Lawyers Professionalism & Ethics Telephone Seminar (December 2008)
- 2008 Presentation/Moderator, *Ethics of Practice Management*, Missouri Bar Telephone Seminar (December 2008)
- 2008 Presentation, *Ethical Risks of Offshore Outsourcing of Legal Services*, Strafford Publications Telephone Seminar (December 2008)
- 2008 Presentation, *Trust & Estate Ethics*, Milwaukee Bar, Milwaukee, Wisconsin (December 2008)
- 2008 Presentations, *Preparing Experts for Deposition* and *Ethics and the Use of Experts*, NBI, St. Louis, Missouri (November 2008)
- 2008 Presentation, *Ethics for Entrepreneur*, Center for Emerging Technologies, St. Louis, Missouri (November 2008)
- 2008 Presentation, *Legal Ethics*, Washington University Office of General Counsel, St. Louis, Missouri (October 2008)
- 2008 Presentation, *Loss Prevention in Cyberia: Promoting Basic Digital Hygiene in Your Firm*, Aon 2008 Large Firm Risk Management Symposium, Chicago, Illinois (October 2008)
- 2008 Presentation, *Professional Responsibility I: Trust Accounts & Privilege*, Hinshaw University: Hinshaw & Culbertson LLP, Chicago, Illinois (October 2008)
- 2008 Presentation, *Ethical Risks of Offshore Outsourcing of Legal Services*, Strafford Publications Telephone Seminar (October 2008)
- 2008 Presentation, *Collecting Your Fee When the Lawyer-Client Relationship Sours*, West LegalEdcenter Webinar (September 2008)
- 2008 Moderator, *Avoiding Common Mistakes Associates Make in Client Communications*, ABA Law Practice Management Section Telephone Seminar (September 2008)
- 2008 Presentation, *Drafting LLC Agreements: Ethics*, NBI, Clayton, Missouri (September 2008)
- 2008 Presentation, *Marketing on the Internet in the 21st Century: Modern Technology Meets Lawyer Regulation*, Association of Professional Responsibility Lawyers, New York, New York (August 2008)

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- 2008 Presentation, *Joining and Excelling in a Firm—Money Issues: The Market for Legal Services and Billing & Profitability*, American Bar Association Law Student Division/Law Practice Management Section, New York, New York (August 2008)
- 2008 Presentation, *Ethical Risks of Offshore Outsourcing of Legal Services*, Strafford Publications Telephone Seminar (August 2008)
- 2008 Presentation, *Engagement Letters and Conflict Waivers*, Hinshaw & Culbertson LLP, St. Louis, Missouri (July 2008)
- 2008 Presentation, *The Anti-Contact Rule*, West LegalEdcenter Webinar (July 2008)
- 2008 Presentation, *Advanced Estate Planning Techniques: Ethical Issues in a Trust & Estate Practice*, National Business Institute, Clayton, Missouri (June 2008)
- 2008 Presentation, *Law Office Management & Economics Breakfast Symposium: “Making Alternative Billing Work,”* 132nd Illinois State Bar Association Annual Meeting, St. Louis, Missouri (June 2008)
- 2008 Presentation, *Post SOX Legal Ethics: Considerations in a Changing Corporate Legal Environment*, Navistar/LexisNexis, Warrenville, Illinois (June 2008)
- 2008 Presentation, *Dealing with Difficult Clients*, 23rd Annual What’s New in Legal Ethics and Fee Disputes Seminar, Bar Association of Metropolitan St. Louis, St. Louis, Missouri (May 2007)
- 2008 Presentation, *Ethics for the Business Lawyer: Confidentiality, Negotiation Ethics, and Multijurisdictional Practice*, American Law Institute | American Bar Association (ALI-ABA) Telephone Seminar (June 2008)
- 2008 Presentation, *Special Issues for Government Lawyers and Private Sector Lawyers Practicing Before Government Agencies*, Law Seminars International, Chicago, Illinois (June 2008)
- 2008 Presentations, *Legal Ethics in Missouri: Attorney-Client Privilege and Work-Product Protections and Engagement Letters*, Lorman Education Services, St. Louis, Missouri (June 2008)
- 2008 Presentation, *Navigating an Ethical Complaint in a Sea of Uncertainty*, Missouri Solo & Small Firm Conference, Osage Beach, Missouri (June 2008)
- 2008 Presentation, *Keeping Rambo Lawyers in Retirement—A Review of Federal Sanctions Law*, Clerk’s Retreat, United States District Court for the Eastern District of Missouri, St. Louis, Missouri (June 2008)
- 2008 Presentation, *Lawyer Ethics and Legal Websites*, American Law Institute | American Bar Association (ALI-ABA) Telephone Seminar (June 2008)
- 2008 Presentation, *Good Culture: Moving Beyond Loss Prevention in Law Firms*, 34th Annual National Conference on Professional Responsibility, American Bar Association Center for Professional Responsibility, Chicago, Illinois (May 2008)
- 2008 Group Facilitator, *Living a Life in the Law: Managing Up, Down, & Around*, ABA Law Practice Management Section Spring Meeting, Santa Fe, New Mexico (May 2008)

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- 2008 Presentation, *Conflicts of Interest Within Corporate Legal Departments and With Outside Firms*, Ethics Seminar co-sponsored by the Association of Corporate Counsel—Chicago Chapter and Hinshaw & Culbertson LLP, Chicago, Illinois (May 2008)
- 2008 Presentation, *Attorney/Client Privilege and Electronic Communications from an Ethics Perspective*, American College of Investment Council (ACIC) 2008 Spring Forum, Chicago, Illinois (April 2008)
- 2008 Presentation, *Reprise of “Ethical Considerations” from ISBA’s The Ongoing Struggle: Balancing of Students’ Education Rights v. Students’ Safety*, Hinshaw & Culbertson, LLP School Law Group (April 2008)
- 2008 Presentation, *Litigation Ethics*, Hinshaw & Culbertson, LLP Trial Advocacy Program, Chicago, Illinois (March 2008)
- 2008 Presentation, *Conflicts of Interest for the Business Lawyer*, American Law Institute | American Bar Association (ALI-ABA) Telephone Seminar (March 2008)
- 2008 Presentation, *Ethics and Alternative Billing*, American Bar Association Law Practice Management Section Finance Core Group Telephone Conference (March 2008)
- 2008 Presentation, *Ethics and Paralegal Billing*, St. Louis Association of Legal Assistants, St. Louis, Missouri (March 2008)
- 2008 Presentation, *Various Ethics Issues for the Trusts and Estates Practitioner*, Bar Association of Metropolitan St. Louis, St. Louis, Missouri (March 2008)
- 2008 Presentation/Moderator, *Advertising for the Next Generation: From Billboards to Blogs*, ABA Center for Professional Responsibility Telephone Seminar (March 2008)
- 2008 Presentation, *Fee Disputes: New Solutions to an Old Problem*, Legal Malpractice & Risk Management Conference, Chicago, Illinois (February 2008)
- 2008 Presentation, *Insurance Defense Ethical Issues and Ethics and Experts*, Hinshaw & Culbertson LLP, Belleville, Illinois (February 2008)
- 2008 Presentation, *Back to Basics—Common Ethical Questions Facing Bankruptcy Practitioners*, Missouri Bar Annual Bankruptcy Institute, St. Louis, Missouri (February 2008)
- 2008 Column, *Eye on Ethics: Eighth Circuit Explores the Crime-Fraud Exception to Privilege and the Work-Product Protection*, St. Louis Lawyer (February 2008)
- 2008 Presentation, *The Missouri Anti-Contact Rule and The Attorney-Client Privilege*, Hinshaw & Culbertson LLP, St. Louis, Missouri (January 2008)
- 2007 Presentation, *Practicing With Non-Lawyers and in “Law-Related Businesses,”* DRI Lawyers Professionalism & Ethics Telephone Seminar (December 2007)
- 2007 Presentation, *Ethical Risks of Legal Outsourcing*, Strafford Publications Telephone Seminar (December 2007)

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- 2007 Presentation/Moderator, *The Ethics of Practice Management*, Missouri Bar Telephone Seminar (December 2007)
- 2007 Presentation, *Professional Responsibility and Ethics Issues*, Illinois State Bar Association Basic Skills Program, Chicago, Illinois (December 2007)
- 2007 Presentation, *Problems in Ex Parte Communications with Adversaries, Experts, & Witnesses and Recurring Conflict of Interest Issues in Litigation*, Missouri Bar, St. Louis, Missouri (November 2007)
- 2007 Presentation/Moderator, *The Top Ethics Traps for Lawyers*, ABA Connection Telephone Seminar (November 2007)
- 2007 Presentation, *Professional Responsibility and Ethics Issues*, Illinois State Bar Association Basic Skills Program, Springfield, Illinois (November 2007)
- 2007 Moderator, *10x10 Extreme Marketing: Best Practice Case Studies*, American Bar Association Law Practice Management Law Firm Marketing Strategies Conference, Washington, D.C. (November 2007)
- 2007 Presentation, *Small and Medium Firms & Update on Marketing Ethics*, American Bar Association Law Practice Management Law Firm Marketing Strategies Conference, Washington, D.C. (November 2007)
- 2007 Presentations, *Ethics I and II*, Edward Jones Tax & Legal Professionals Continuing Education Series, Kansas City, Missouri (November 2007)
- 2007 Presentation, *Ethics of Negotiation*, Virginia CLE Telephone Seminar (October 2007)
- 2007 Presentation, *Ethics in Preparing and Representing Witnesses at Deposition*, West LegalEdcenter Webinar (October 2007)
- 2007 Presentation, *Ethics and Expert Witnesses*, Lawyers Professionalism and Ethics Committee, DRI Annual Meeting, Washington, DC (October 2007)
- 2007 Presentation, *The Privilege Review*, Fox Galvin, LLC (July 2007)
- 2007 Moderator, *Collecting Your Fee: Ethically Getting Paid from Intake to Invoice*, ABA Law Practice Management Section Telephone Seminar (June 2007)
- 2007 Presentation, *Missouri Legal Ethics: Attorney-Client Privilege and Work Product Protections*, Lorman Education Services, St. Louis, Missouri (June 2007)
- 2007 Presentation, *The 2007 Amendments to Missouri's Rules of Professional Conduct*, BJC Healthcare, St. Louis, Missouri (June 2007)
- 2007 Presentation, *Lawyer Ethics and Legal Websites*, American Law Institute | American Bar Association (ALI-ABA) Telephone Seminar (June 2007)

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- 2007 Presentation, *Embedded Data and Other Invisible Confidences*, 33rd Annual National Conference on Professional Responsibility, American Bar Association Center for Professional Responsibility, Chicago, Illinois (June 2007)
- 2007 Presentation, *The New, New, New Missouri Rules of Professional Conduct*, 21st Annual What's New in Legal Ethics Seminar, Bar Association of Metropolitan St. Louis, St. Louis, Missouri (May 2007)
- 2007 Presentation, *Conflict Issues for Illinois Practitioners: Small Firms, Sole Practitioners and Laterals*, Illinois State Bar Association Practical Ethical Advice Seminar, Collinsville, Illinois (April 2007)
- 2007 Presentation/Moderator, *Conflicts and Conflict Waivers*, ABA Law Practice Management Section Telephone Seminar (April 2007)
- 2007 Presentation, *Comparative Professional Ethics: Lawyers & CPAs*, Comparative Professional Ethics Class, Washington University School of Law, St. Louis, Missouri (March 2007)
- 2007 Presentation, *The Ethics of Negotiation*, American Law Institute | American Bar Association (ALI-ABA) Telephone Seminar (March 2007)
- 2007 Judge for *Demonstration Daubert Hearing*, Seventeenth Annual Association for Environmental Health and Science Meeting and West Coast Conference, San Diego, California (March 2007)
- 2007 Presentation, *Ethics*, St. Louis Chapter of the Institute of Internal Auditors, St. Louis, Missouri (January 2007)
- 2006 Presentation/Moderator, *The Ethics of Managing Multistate Law Practices*, ABA Law Practice Management Section Telephone Seminar (December 2006)
- 2006 Presentation, *Ethics and the Acquisition of Clients in an Internet World*, West LegalEdcenter (West Group)/NBI Webcast (December 2006)
- 2006 Presentation, *Changes to the Federal Rules of Civil Procedure*, Fox Galvin, LLC, St. Louis, Missouri (December 2006)
- 2006 Column, *Ethical Obligations Upon Receiving Inadvertently Disclosed Privileged Metadata*, St. Louis Lawyer (December 2006)
- 2006 Presentation, *Ethics and the New Federal Rules of Civil Procedure*, Applied Discovery 2006 Holiday Webinar Series (December 2006)
- 2006 Presentation/Moderator, *The Ethics of Practice Management*, Missouri Bar Telephone Seminar (December 2006)
- 2006 Presentation, *Ethics and Professionalism Issues in Investigation and Discovery*, DRI Lawyers Professionalism & Ethics Telephone Seminar (December 2006)
- 2006 Presentation, *Ethics Update*, Special Education: A Review of the Basics of Due Process, Illinois State Bar Association Law Ed CLE, Springfield, IL (November 2006)

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- 2006 Presentation, *Tricky Ethical Issues Through Lawyer Jokes*, The Boeing Company, St. Louis, Missouri (October 2006)
- 2006 Presentation, *Ten Unexpected Ethical Traps and How to Avoid Getting Snared*, DRI Asbestos Medicine Seminar, Las Vegas, Nevada (October 2006)
- 2006 Presentation, *Employee Monitoring versus Privacy Rights*, Fox Galvin Employment Law Seminar 2006, St. Louis, Missouri (October 2006)
- 2006 Presentation, *DoubleE: Ethics and E-Discovery*, Bar Association of Metropolitan St. Louis Telephone Seminar (October 2006)
- 2006 Presentation, *Crossing State Lines—Ethical and Malpractice Issues Arising from Multijurisdictional Practice*, DRI Annual Meeting, San Francisco, California (October 2006)
- 2006 Presentation, *Do You Know, Do You Care? How to Make Ethics CLEs More Lively*, Association of Professional Responsibility Lawyers, Santa Monica, California (July 2006)
- 2006 Presentation, *Ethical Considerations in E-Discovery*, Applied Discovery Summer 2006 Webinar Series (July 2006)
- 2006 Judge for *Mock Daubert Trial*, National Groundwater Association Ground Water and Environmental Law Conference, Chicago, Illinois (July 2006)
- 2006 Presentation, *Expert Witness or Hired Hack: When Paid Witnesses Advocate Too Much*, National Groundwater Association Ground Water and Environmental Law Conference, Chicago, Illinois (July 2006)
- 2006 Presentation, *Insurance Defense Ethical Issues*, Fox Galvin, LLC, St. Louis, Missouri
- 2006 Article, *Does a Conflict Vicariously Taint an Associated Firm?*, *Litigation Ethics* (Spring 2006 Issue, June 2006)
- 2006 Presentation, *Ethical Issues in Insurance Defense and Coverage Practice*, DRI Lawyers Professionalism & Ethics Telephone Seminar (June 2006)
- 2006 Presentation, *Update on Missouri Ethics Law 2006*, 20th Annual What's New in Legal Ethics Seminar: The Mind of the Virtuous Lawyer . . . and More, Bar Association of Metropolitan St. Louis, St. Louis, Missouri (June 2006)
- 2006 Column, *Navigating an Insurer-Insured Conflict over Settlement*, *For the Defense* (May 2006)
- 2006 Presentation, *Empowered Paralegals: The Ethics of Serving As and Using Paralegals*, St. Louis Association of Legal Assistants, St. Louis, Missouri (May 2006)
- 2006 Presentation, *How to . . . Deal with the Procrastinating Client*, 17th Annual Estate Planning Institute, Bar Association of Missouri St. Louis Probate & Trust Section, St. Louis, Missouri (April 2006)
- 2006 Presentation, *Using Client Surveys to Improve Your Practice*, American Bar Association Law Practice Management Section Telephone Seminar (March 2006)

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- 2006 Presentation, *Humorous Update on Ethics in a Probate & Trust Practice*, Bar Association of Missouri St. Louis Probate & Trust Section, St. Louis, Missouri (March 2006)
- 2006 Presentation, *Legal Ethics through Lawyer Jokes: Should it hurt when they laugh?*, Young Lawyers' Section of the Missouri Bar, St. Louis, Missouri (February 2006)
- 2006 Presentation, *Faith and Law—Integrating Christian Faith and a Private Legal Practice*, Webster Groves Presbyterian Church (February 2006)
- 2006 Presentation, *Top 10 Ethics Issues for Volunteers*, Volunteer Lawyers and Accountants for the Arts, St. Louis, Missouri (January 2006)
- 2006 Presentation, *Tax Practitioner? Meet Circular 230*, Bar Association of Metropolitan St. Louis Telephone Seminar (January 2006)
- 2005 Presentation, *Ethical Advertising and Multijurisdictional Practice*, West LegalEdcenter (West Group)/NBI Audio-Only Webcast (December 2005)
- 2005 Presentation/Moderator, *The Ethics of Practice Management*, Missouri Bar Telephone Seminar (December 2005)
- 2005 Presentation, *Annual Training for Discipline System: Multijurisdictional Practice Issues*, Office of Chief Disciplinary Counsel for the Supreme Court of Missouri, St. Louis, Missouri (October 2005)
- 2005 Presentation, *The Ethics of Bluffing*, Lawyers Professionalism and Ethics Committee, DRI Annual Meeting, Chicago, Illinois (October 2005)
- 2005 Presentation, *Current Ethics Issues: Multijurisdictional Practice Issues*, Bar Association of Metropolitan St. Louis Telephone Seminar (July 2005)
- 2005 Presentation, *Confidentiality and Conflict Issues for Environmental Attorneys and Experts*, National Ground Water Association Ground Water and Environmental Law Conference, Baltimore, Maryland (July 2005)
- 2005 Presentation, *Key Ethical Issues*, Bar Association of Metropolitan St. Louis Telephone Seminar (June 2005)
- 2005 Presentation, *Multijurisdictional Practice Issues*, 19th Annual What's New in Legal Ethics Seminar, Bar Association of Metropolitan St. Louis, St. Louis, Missouri (June 2005)
- 2005 Presentation, *Managing Ethical Issues in Your Day-to-Day Practice in Missouri: Advertise Your Services Without Fear & Key Ethical Issues*, National Business Institute, St. Louis, Missouri (June 2005)
- 2005 Presentation, *The Ethics of Preparing and Using Surveys in a Law Practice*, American Bar Association Law Practice Management Section meeting, Orlando, Florida (May 2005)
- 2005 Presentation, *Ethics in the House 2005*, Fox Galvin, LLC, St. Louis, Missouri (April 2005)

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- 2004 Presentation/Moderator, *The Ethics of Practice Management: Playing by the Rules*, Missouri Bar Telephone Seminar (December 2004)
- 2004 Presentation, *Maritime Law Seminar: Attorney Ethical Conflicts in the Maritime Setting*, Bar Association of Metropolitan St. Louis, St. Louis, Missouri (November 2004)
- 2004 Presentation, *Ethics for Young Attorneys*, Bar Association of Metropolitan St. Louis, St. Louis Missouri (October 2004)
- 2004 Panelist, *Black, White or Shades of Gray: The Ethics of Negotiation*, Missouri Bar/Missouri Judicial Conference Annual Meeting, St. Louis, Missouri (September 2004)
- 2004 Presentation, *Ethical Responsibilities of Legal Assistants*, NALS of Missouri, St. Louis, Missouri (September 2004)
- 2004 Presentation/Moderator, *Town Forum on the Proposed Changes to Missouri Supreme Court Rules 7.1-7.3 on Lawyer Advertising*, Bar Association of Metropolitan St. Louis, St. Louis, Missouri (September 2004)
- 2004 Presentation, *How to Practice Ethically in Both Missouri and Illinois*, 18th Annual What's New in Legal Ethics seminar, Bar Association of Metropolitan St. Louis, St. Louis, Missouri (June 2004)
- 2003 Presentation, *Are the Revised Model Rules Treating Law as a Business? A Discussion of the Implications for Missouri Lawyers*, Missouri Bar Professionalism Committee, Jefferson City, Missouri (November 2003)
- 2003 Presentation, *Ethics in the House*, Fox Galvin LLC, St. Louis, Missouri
- 2003 Presentation, *Strength in Numbers: The Paralegal's Guide to Conducting Discovery in Class Action Lawsuits*, Institute for Paralegal Education, St. Louis, Missouri (September 2003)
- 2003 Presentation, *Communications with Clients, the Courts, and Others*, 17th Annual What's New in Legal Ethics seminar, Bar Association of Metropolitan St. Louis, St. Louis, Missouri (June 2003)
- 2002 Presentation, *Ethics in Litigation*, Bar Association of Metropolitan St. Louis, St. Louis, Missouri
- 2000 Presentation, *Is E-Mail Open Mail? Issues of Privacy, Confidentiality, & Security*, Greater St. Louis Legal Secretaries Association, St. Louis, Missouri

On Accounting Ethics & Risk Management

- 2012 Presentation, *CPA Ethics 2012*, Brown Smith Wallace LLC, St. Louis, Missouri (December 2012)
- 2012 Presentation, *Current Ethical Issues: Scenarios & Solutions*, Missouri Society of Certified Public Accountants, St. Louis, Missouri (November 2012)
- 2012 Presentation, *CPA Ethics 2012*, Stone Carlie, St. Louis, Missouri (November 2012)

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- 2012 Presentation, *CPA Ethics 2012*, Brown Smith Wallace LLC, St. Louis, Missouri (November 2012)
- 2012 Presentation, *Accounting Ethics: Nonprofits*, Missouri Society of Certified Public Accountants, St. Louis, Missouri (October 2012)
- 2012 Presentation, *Accounting Ethics*, Boeing Company, St. Louis, Missouri (October 2012)
- 2012 Presentation, *CPA Ethics 2012*, Conner Ash P.C., St. Louis, Missouri (October 2012)
- 2012 Presentation, *Ethics for Tax Professionals*, Deloitte LLP, St. Louis, Missouri (August 2012)
- 2012 Presentation, *CPA Ethics 2012*, Hochschild, Bloom & Co. LLP, St. Louis, Missouri (August 2012)
- 2012 Presentation, *Ethical Challenges Faced by CPAs in Practice*, Beta Alpha Psi 2012 Missouri Valley Regional Meeting, St. Louis, Missouri (March 2012)
- 2011 Presentation, *CPA Ethics 2011*, Missouri Society of Certified Public Accountants, St. Louis, Missouri (December 2011)
- 2011 Presentation, *CPA Ethics 2011*, Hochschild, Bloom & Co. LLP, St. Louis, Missouri (December 2011)
- 2011 Presentation, *CPA Ethics 2011*, Brown Smith Wallace LLC, St. Louis, Missouri (December 2011)
- 2011 Presentation, *CPA Ethics 2011*, St. Louis Society of Women Certified Public Accountants, St. Louis, Missouri (November 2011)
- 2011 Presentation, *CPA Ethics 2011*, Missouri Society of Certified Public Accountants, Columbia, Missouri (November 2011)
- 2011 Presentation, *CPA Ethics 2011*, Missouri Society of Certified Public Accountants Accounting & Technology Conference, St. Louis, Missouri (November 2011)
- 2011 Presentation, *CPA Ethics 2011*, Brown Smith Wallace LLC, St. Louis, Missouri (November 2011)
- 2011 Presentation, *CPA Ethics 2011*, Stone Carlie, St. Louis, Missouri (November 2011)
- 2011 Presentation, *CPA Ethics 2011*, Conner Ash P.C., St. Louis, Missouri (October 2011)
- 2011 Presentation, *CPA Ethics 2011*, Lopata Flegel & Company LLP, St. Louis, Missouri (October 2011)
- 2011 Presentation, *CPA Ethics 2011*, Anders Minkler Diehl LLP, St. Louis, Missouri (September 2011)
- 2010 Presentation, *CPA Ethics 2010*, Brown Smith Wallace LLC, St. Louis, Missouri (December 2010)

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- 2010 Presentation, *Ethical & Profitable Accounting in a Wireless World*, 2010 AccountingToday Profitability & Growth Summit, Las Vegas, Nevada (November 2010)
- 2010 Presentation, *CPA Ethics 2010*, Missouri Society of Certified Public Accountants, St. Louis, Missouri (November 2010) (three presentations)
- 2010 Presentation, *Ethics*, Missouri Society of Certified Public Accountants, Cape Girardeau, Missouri (November 2010)
- 2010 Presentation, *CPA Ethics 2010*, Brown Smith Wallace LLC, St. Louis, Missouri (November 2010)
- 2010 Presentation, *Ethics*, Anders Minkler & Diehl LLP, St. Louis, Missouri (October 2010)
- 2010 Presentation, *Ethics 2010*, Conner Ash PC, St. Louis, Missouri (October 2010)
- 2010 Presentation, *Family Law—Malpractice Session*, Illinois CPA Society, Chicago, Illinois (October 2010)
- 2009 Presentation, *CPA Ethics 2009*, Missouri Society of Certified Public Accountants, Kansas City, Missouri (November 2009)
- 2009 Presentation, *Ethics—Independence, Objectivity, and Conflicts of Interest*, Grant Thornton, Kansas City, Missouri (November 2009)
- 2009 Presentation, *CPA Ethics 2009*, Missouri Society of Certified Public Accountants, St. Louis, Missouri (November 2009)
- 2009 Presentation, *CPA Ethics 2009*, Stone Carlie & Co., St. Louis, Missouri (November 2009)
- 2009 Presentation, *CPA Ethics 2009*, Missouri Society of Certified Public Accountants, Columbia, Missouri (November 2009)
- 2009 Presentations, *CPA Ethics 2009*, Missouri Society of Certified Public Accountants, St. Charles, Missouri (November 2009)
- 2009 Presentation, *CPA Ethics 2009*, Brown Smith Wallace LLC, St. Louis, Missouri (November 2009)
- 2009 Presentation, *CPA Ethics 2009*, Missouri Society of Certified Public Accountants, Cape Girardeau, Missouri (November 2009)
- 2008 Presentation, *CPA Ethics 2008*, Missouri Society of Certified Public Accountants, Springfield, Missouri (December 2008)
- 2008 Presentation, *CPA Ethics 2008*, Missouri Society of Certified Public Accountants, Kansas City, Missouri (December 2008)
- 2008 Presentation, *CPA Ethics 2008*, Brown Smith Wallace LLC, St. Louis, Missouri (December 2008)
- 2008 Presentation, *CPA Ethics 2008*, Humes & Barrington, LLP, St. Louis, Missouri (November 2008)

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- 2008 Presentation, *CPA Ethics 2008*, Stone Carlie & Co., St. Louis, Missouri (November 2008)
- 2008 Presentation, *CPA Ethics 2008*, Missouri Society of Certified Public Accountants, St. Louis, Missouri (November 2008)
- 2008 Presentation, *CPA Ethics 2008*, Brown Smith Wallace LLC, St. Louis, Missouri (November 2008)
- 2008 Presentation, *CPA Management Breakfast Series: CPA Ethics 2008*, St. Louis Community College, St. Louis, Missouri (September 2008)
- 2008 Presentation, *CPA Ethics: 6 Tips for a Relaxed Mind*, BDO Seidman Alliance, Chicago, Illinois (August 2008)
- 2008 Presentation, *CPA Ethics 2008*, BKD LLP Audit Department, St. Louis, Missouri (August 2008)
- 2008 Presentations, *Managing Liability & Risk in You Practice*, Michigan Association of Certified Public Accountants Summer Management Information Show (June 2008)
- 2007 Presentation, *CPA Ethics 2007*, Missouri Society of Certified Public Accountants, Springfield, Missouri (December 2007)
- 2007 Presentation, *CPA Ethics 2007*, Kirkpatrick Phillips Miller, Springfield, Missouri (December 2007)
- 2007 Presentation, *CPA Ethics 2007*, Missouri Society of Certified Public Accountants, Kansas City, Missouri (December 2007)
- 2007 Presentation/Moderator, *The Ethics of Practice Management*, Missouri Bar Telephone Seminar (December 2007)
- 2007 Presentation, *Professional Responsibility and Ethics Issues*, Illinois State Bar Association Basic Skills Program, Chicago, Illinois (December 2007)
- 2007 Presentation, *CPA Ethics 2007*, Brown Smith Wallace LLC, St. Louis, Missouri (December 2007)
- 2007 Presentation, *CPA Ethics 2007*, Humes & Barrington, LLP, St. Louis, Missouri (November 2007)
- 2007 Presentation, *CPA Ethics 2007*, Missouri Society of Certified Public Accountants, St. Louis, Missouri (November 2007)
- 2007 Presentation, *CPA Ethics 2007*, 2007 Jack Lipsitz Memorial Lectures Series of the Accountants Emergency Assistance Association, St. Louis, Missouri (November 2007)
- 2007 Presentation, *CPA Ethics 2007*, Jefferson Wells, St. Louis, Missouri (November 2007)
- 2007 Presentations, *Ethics I and II*, Edward Jones Tax & Legal Professionals Continuing Education Series, Kansas City, Missouri (November 2007)
- 2007 Presentation, *CPA Ethics 2007*, Brown Smith Wallace LLC, St. Louis, Missouri (November 2007)

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- 2007 Presentation, *CPA Ethics 2007*, Anders Minkler & Diehl LLP, St. Louis, Missouri (November 2007)
- 2007 Presentation, *CPA Ethics 2007*, Hochschild, Bloom & Co. LLP, St. Louis, Missouri (October 2007)
- 2007 Presentation, *CPA Management Breakfast Series: Ethics for CPAs*, St. Louis Community College, St. Louis, Missouri (October 2007)
- 2007 Presentation, *Ethics for CPAs*, Stone Carlie & Co., St. Louis, Missouri (August 2007)
- 2007 Presentation, *Comparative Professional Ethics: Lawyers & CPAs*, Comparative Professional Ethics Class, Washington University School of Law, St. Louis, Missouri (March 2007)
- 2006 Presentation, *Ethics for CPAs*, Missouri Society of Certified Public Accountants, Kansas City, Missouri (December 2006)
- 2006 Presentation, *Ethics for CPAs*, Humes & Barrington, LLP, St. Louis, Missouri (December 2006)
- 2006 Presentation, *Ethics for CPAs*, Missouri Society of Certified Public Accountants, St. Louis, Missouri (December 2006)
- 2006 Presentation, *Ethics for CPAs*, Brown Smith Wallace, LLC, St. Louis, Missouri (December 2006)
- 2006 Presentation, *Ethics for CPAs*, Brown Smith Wallace, LLC, St. Louis, Missouri (November 2006)
- 2006 Presentation, *Ethics for CPAs*, Anders Minkler & Diehl LLP, St. Louis, Missouri (November 2006)
- 2006 Presentation, *CPA Management Breakfast Series: Ethics Update for CPAs*, St. Louis Community College, St. Louis, Missouri (September 2006)
- 2006 Presentation, *Current Ethical Issues for Missouri CPAs*, 2006 Annual Members Convention, Missouri Society of Certified Public Accountants, Lake Ozarks, Missouri (June 2006)
- 2005 Presentation, *Ethical Pitfalls 2005*, Missouri Society of Certified Public Accountants, St. Louis, Missouri (December 2005)
- 2005 Presentation, *Ethical Pitfalls 2005*, Missouri Society of Certified Public Accountants, Cape Girardeau, Missouri (December 2005)
- 2005 Presentation, *Ethical Pitfalls—Vintage 2005*, Brown Smith Wallace, LLC, St. Louis, Missouri (December 2005)
- 2005 Presentation, *Ethical Pitfalls 2005*, Missouri Society of Certified Public Accountants, Columbia, Missouri (December 2005)
- 2005 Presentation, *Ethical Pitfalls 2005*, Missouri Society of Certified Public Accountants, Springfield, Missouri (December 2005)
- 2005 Presentation, *Ethical Pitfalls 2005 for Hochschild, Bloom & Co.*, Hochschild, Bloom & Co. LLP, St. Louis, Missouri (November 2005)

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- 2005 Presentation, *CPA Management Breakfast Series: Accounting Ethics at Dawn*, St. Louis Community College, St. Louis, Missouri (November 2005)
- 2005 Presentation, *Ethics for Internal Auditors*, Institute of Internal Auditors, Jefferson City, Missouri (November 2005)
- 2005 Presentation, *Ethical Pitfalls—Vintage 2005*, Brown Smith Wallace, LLC, St. Louis, Missouri (November 2005)
- 2005 Presentation, *Ethical Pitfalls—Vintage 2005*, Anders Minkler & Diehl LLP, St. Louis, Missouri (October 2005)
- 2005 Presentation, *Ethics for Tax Accountants*, 2005 Jack Lipsitz Memorial Lectures Series of the Accountants Emergency Assistance Association, St. Louis, Missouri (October 2005)
- 2005 Presentation, *Current Ethics Issues: Multijurisdictional Practice Issues*, Bar Association of Metropolitan St. Louis Telephone Seminar (July 2005)
- 2004 Presentation, *CPA Management Breakfast Series: Accounting Ethics—Inside, Outside, Upside Down*, St. Louis Community College, St. Louis, Missouri (December 2004)
- 2004 Presentations, *Avoiding Ethical Pitfalls*, Hochschild, Bloom & Co. LLP, St. Louis, Missouri (December 2004)
- 2004 Presentations, *Avoiding Ethical Pitfalls*, UHY Advisors, St. Louis, Missouri (November and December 2004)
- 2004 Presentations, *Avoiding Ethical Pitfalls*, Missouri Society of Certified Public Accountants, Cape Girardeau, Missouri (October 2004) and Kansas City and St. Louis, Missouri (November 2004)
- 2003 Presentation, *CPA Management Breakfast Series: Avoiding Ethical Pitfalls*, St. Louis Community College, St. Louis, Missouri (December 2003)

On Other Topics

- 2016 Presentation, *Governmental Ethics: Avoiding Conflicts of Interest*, Municipal Officers Training Academy, St. Louis, Missouri (February 2016)
- 2014 Presentation, *The Future of Legal Education: Continuing Progress*, St. Louis University School of Law, St. Louis, Missouri (April 2014)
- 2013 Presentation, *Business Ethics for Healthcare Professionals*, HFMA Southern Illinois Chapter, O'Fallon, Illinois (November 2013)
- 2013 Presentation, *Growing the ABA by Leveraging Section Strengths*, ABA Section Officers Conference, Chicago, Illinois (September 2013)
- 2013 Presentation *Civil Rights and the War on Terror*, Congregational Summer Assembly mens' group, Frankfort, Michigan (July 2013)

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- 2011 Presentations, *Creating an Ethics & Compliance Program, The Role of Fiduciary, and Preventing Fraud*, St. Louis University Executive Certificate In Corporate Ethics & Compliance Management (August 2011)
- 2011 Presentation, *How to Use Powerpoint I*, Hinshaw & Culbertson LLP, St. Louis, Missouri (February 2011)
- 2010 Presentation, *Fiduciaries: Are You One and What Does That Mean*, Estate Planning Counsel of St. Louis (September 2010)
- 2008 Presentation, *Ethics for Entrepreneur*, Center for Emerging Technologies, St. Louis, Missouri (November 2008)
- 2007 Judge for *Demonstration Daubert Hearing*, Seventeenth Annual Association for Environmental Health and Science Meeting and West Coast Conference, San Diego, California (March 2007)
- 2007 Presentation, *Ethics and Discrimination*, Frontenac Bank, St. Louis, Missouri (February 2007)
- 2006 Judge for *Mock Daubert Trial*, National Groundwater Association Ground Water and Environmental Law Conference, Chicago, Illinois (July 2006)
- 2005 Panel Member, *Legal challenges of Missouri's Total Maximum Daily Load (TMDL) 303d list*, Missouri Chamber of Commerce Environmental Conference at the Lake, Osage Beach, Missouri (July 2005)
- 2003 Presentation, *How to Argue a Motion*, Introduction to U.S. Law & Methods Course, Washington University School of Law, St. Louis, Missouri
- 2002 Presentation, *Confidentiality of Medical/Mental Health Records*, Medical Educational Services, Inc. (MEDS)/Professional Development Network (PDN), Clayton, Missouri
- 2001 Presentation, *Oral Argument*, Appellate Advocacy Seminar, Washington University School of Law
- 2001 Presentation, *HIPAA & Other Legal Requirements for Computerized Medical Records in Nebraska*, Lorman Education Services, Omaha, Nebraska

PROFESSIONAL INVOLVEMENT

1998- AMERICAN BAR ASSOCIATION

Member, ABA Task Force on the Future of Legal Education, 2012-2014
Member, ABA Commission on Ethics 20/20 Technology Working Group, 2010-13
Class Representative, Section Officers Committee (Secretaries), 2010-11
Member, Executive Committee for the Section Officers Committee, 2010-11

Law Practice Division (Law Practice Management Section until 2013)

Chair 2013-14

Chair Elect 2012-13

Vice Chair 2011-12

Secretary 2010-11
Section Council 2008-10
ABA TECHSHOW 2017 Vice-Chair 2016- and Planning Board Member 2016-
Ethics Task Force Chair 2011-12, 2014- and Member 2011-
Strategy & Planning Committee 2010-12
Education Board Co-Chair 2007-8 and Member 2004-08
Publication Board 2008-09
Marketing and Membership Committee Member 2004-07, 2009-10
Leadership Mentee 2004-06

Center for Professional Responsibility
Standing Committee on Lawyer Discipline Member 2016-
Ethics and Technology Committee Chair 2006-09 and Member 2005-09
Center Coordinating Council Member 2006-09
Center Strategic Development Committee Member 2007-10
Center for Professional Responsibility Membership Committee Member 2004-07
ABA Canons of Professional Ethics Centennial Planning Committee Member 2007-08
Chair, Section Officers Committee Task Force on Tax Strategy Patents 2008

Litigation Section Ethics & Professionalism Committee
Co-Chair, Legislation and Rules Subcommittee 2008-
Member, Ad Hoc Committee on ULC Collaborative Law Model Act 2008

1998- MISSOURI BAR ASSOCIATION
Joint Task Force of the Supreme Court of Missouri and The Missouri Bar on the Future of the
Profession Member 2015-16
Missouri Bar "Ethics 2005" Committee Member 2005-06
Special Committee on Lawyer Advertising Member 2004-06, 2007-09
Helped evaluate proposed mandatory professionalism training program as member of the
Professionalism Committee 2002

2005- MISSOURI SUPREME COURT, Jefferson City, Missouri
2008 Disciplinary Hearing Officer appointed to preside over attorney discipline cases

2003- ASSOCIATION OF PROFESSIONAL RESPONSIBILITY LAWYERS
Member, WebSite Committee 2006-08 and Member, Programs Committee 2008-10

2003- DEFENSE RESEARCH INSTITUTE
2015 Lawyers Professionalism & Ethics Committee Co-Chair of Programs 2006-07, 2009-10 and
Member 2004-15

2000- WASHINGTON UNIVERSITY SCHOOL OF LAW ALUMNI ASSOCIATION
2008 Alumni Executive Committee Member 2000-8
Young Alumni Committee Chair 2001-04 and Member 2001-05

1999- BAR ASSOCIATION OF METROPOLITAN ST. LOUIS
Professionalism and Ethics Committee Chair 2003-06, Vice Chair 2001-03, and Member 1999-

1999- ILLINOIS STATE BAR ASSOCIATION
Draft and prepare ethics advisory opinions as a member of the Standing Committee on
Professional Conduct 2003-10, 2012-16, Chair 2008-09

Serve on the Standing Committee on Law Office Management & Economics 1014-

MEDIA APPEARANCES (Not on Client Matters)

- 2016 Quoted in *In Lee's Summit school district feud, board member and superintendent trade calls to resign*, Kansas City Star (March 23, 2016)
- 2016 Quoted in *Conflicts of Interest: 3M's Delay in Protesting Conflict Dooms DQ Motion*, 32 ABA/BNA Lawyers Manual of Professional Conduct 111 (February 24, 2016)
- 2016 Quoted in *Twitter plays key role for Steven Avery's lawyer*, USA Today Network (January 27, 2016)
- 2015 Quoted in *How To Avoid The Naughty List While Filling Clients' Stockings*, Law360 (December 17, 2015)
- 2015 Quoted in *Dewey-Era Decadence Still Alive and Well at BigLaw*, Law 360 (June 12, 2015)
- 2015 Quoted in *Lincoln County murder retrial hearing to examine testimony, possibly prosecutor's conduct*, St. Louis Post Dispatch (June 5, 2015)
- 2015 Quoted in *Online Marketing Can Lead to Inadvertent Revelations*, Motherboard (May 14, 2015)
- 2015 Quoted in *A web of lawyers play different roles in different courts*, St. Louis Post Dispatch (March 29, 2015)
- 2015 Quoted in *The ethics behind fixing tickets in Missouri*, Missouri Lawyers Weekly (March 19, 2015)
- 2015 Quoted in *Ferguson judge criticized as revenue generator who helped bring in millions*, St. Louis Post Dispatch (March 9, 2015)
- 2015 Quoted in *Local attorneys question St. Louis newcomers*, Missouri Lawyers Weekly (March 9, 2015)
- 2015 Interview, *How Michael Downey Started His Solo Practice*, Legal Talk Network (March 5, 2015)
- 2015 Interview, *New gig for former Armstrong attorneys*, Missouri Lawyers Weekly (February 18, 2015)
- 2014 Quoted in *How to Build a Book of Business in 5 Painless Steps*, Law360 (December 5, 2014)
- 2014 Quoted in *Supreme Court takes increasing interest in attorney discipline*, Missouri Lawyers Weekly (November 11, 2014)
- 2014 Quoted in *Ferguson case tests rule on attorneys public comments*, Missouri Lawyers Weekly (October 31, 2014)
- 2014 Quoted in *The Ghost Writing Debate Continues*, Litigation News (Fall 2014)

- 2014 Quoted in *At Your Service, Legally*, The Dollar Business (September 2014)
- 2014 Quoted in *How We Kill: the State of the Death Penalty*, St. Louis Magazine (April 25, 2014)
- 2014 Quoted in *This Scam Alert Went Unheeded*, Legal Times (March 31, 2014)
- 2013 Quoted in *Pay Peril: Attorneys can run into trouble when fee payers try to get creative*, Missouri Lawyers Weekly (December 30, 2013)
- 2013 Quoted in *Can You Tell Your Client to Clean Up Their Facebook Pages*, Litigation News (Fall 2013)
- 2013 Quoted in *New rules on client trust accounts take effect*, Missouri Lawyers Weekly (August 23, 2013)
- 2013 Quoted in *Legality of legal advertising disclaimer disputed*, Missouri Lawyers Weekly (July 22, 2013)
- 2013 Quoted in *Tips for staying ethical online*, Missouri Lawyers Weekly (June 24, 2013)
- 2013 Quoted in *May Judges "Friend" Attorneys on Social Media?*, Litigation News (Spring 2013)
- 2013 Quoted in *Judges Cracking Under Pressure*, National Law Journal (April 22, 2013); reprinted as *Legal Experts Say Judges Cracking from Presentation*, Legal Intelligencer (April 24, 2013)
- 2013 Quoted in *ABA's 20/20 Commission proposes final changes*, Missouri Lawyers Weekly (March 9, 2013)
- 2013 Quoted in *ABA Tells Judges to 'Tweet,' 'Friend' and 'Like' With Caution*, National Law Journal (February 26, 2013)
- 2013 Quoted in *A Call for Drastic Changes in Educating New Lawyers*, New York Times (February 10, 2013)
- 2013 Quoted in *Trust but Verify*, Missouri Lawyers Weekly (January 28, 2013)
- 2013 Quoted in *Kent Syverud, Lawyer of the Year*, Missouri Lawyers Weekly (January 28, 2013)
- 2013 Quoted in *To safeguard money, lawyers must think like business owners*, Missouri Lawyers Weekly (January 25, 2013)
- 2012 Quoted in *Customers are always right when they praise your firm*, Missouri Lawyers Weekly (December 31, 2012)
- 2012 Quoted in *Fix-it Man*, Missouri Lawyers Weekly (December 24, 2012)
- 2012 Quoted in *Tweeting the law: St. Louis prosecutor gets praise and criticism*, St. Louis Post Dispatch (December 2, 2012)
- 2012 Quoted in *Lawyer Websites: The New Yellow Pages*, Illinois State Bar Journal (August 2012)
- 2012 Quoted in *Ethical Pitfalls in Question-and-Answer Websites*, Litigation News (Summer 2012)

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- 2012 Quoted in *\$5.8M judgment shows perils of oversight*, Missouri Lawyers Weekly (May 14, 2012)
- 2012 Quoted in *Law Firm Names: An Explanation*, WSJ Law Blog (February 9, 2012)
- 2012 Quoted in *Missouri legal malpractice: Claims of lawyers' mistakes grow costlier*, Missouri Lawyers Media (January 20, 2012)
- 2011 Quoted in *An attorney free-for-all*, National Law Journal (December 19, 2011)
- 2011 Quoted in *Law Life: Discarded laptops, flash drives create ethical obligations for lawyers*, Detroit Legal News (November 28, 2011)
- 2011 Quoted in *Oops: Claims of Lawyers' Mistakes Grow Costlier*, Missouri Lawyers Weekly (Oct. 10, 2011)
- 2011 Quoted in *Friending Your Enemies, Tweetings Your Trials: Using Social Media Ethically*, Illinois Bar Journal (October 2011)
- 2011 Referenced in *Ethics 20/20 Commission Approves Release of Draft to Allow Nonlawyer Owners in Firms*, ABA/BNA Lawyers Manual on Professional Conduct (August 17, 2011)
- 2011 Quoted in *License Suspended?*, Missouri Lawyers Weekly (August 15, 2011)
- 2011 Quoted in *Paralegal site charged with unauthorized practice of law*, Lawyers USA (June 1, 2011)
- 2011 Quoted in *Lingering Signs of Attorney Job Frustration*, Litigation News (Spring 2011)
- 2011 Quoted in *The Lowdown on LPM: System Stirs Buzz, But Does it have Bite?*, ABA Journal (May 2011)
- 2011 Quoted in *Cape Girardeau County prosecutor says recusal in Buerkle case fitting, declines to discuss conflict*, Southeast Missourian (January 6, 2011)
- 2011 Quoted in *Ethics in the age of Twitter*, Illinois Bar Journal (January 2011)
- 2010 Quoted in *Yellow Pages Starting to Fade*, Missouri Lawyers Weekly (December 6, 2010)
- 2010 Quoted in *Law Life: Discarded laptops, flash drives may impose ethical obligations on attorneys*, LegalNews.com (November 25, 2010)
- 2010 Quoted in *Discarded laptops, flash drives may impose ethical obligations on attorneys*, Lawyers USA (November 16, 2010)
- 2010 Quoted in *Website infraction leads to lawyer discipline*, Lawyers USA (November 5, 2010)
- 2010 Quoted in *Don't answer that chat room question*, Missouri Lawyers Weekly (October 5, 2010)
- 2010 Quoted in *ABA weighs in on ethical pitfalls of online legal marketing*, Missouri Lawyers Media (October 4, 2010)
- 2010 Quoted in *New lawyer advertising rules put on hold*, Lawyers USA (August 2010)

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- 2010 Quoted in *Law Firm Didn't Violate Confidentiality of Partner Who Used Crack Cocaine, Court Rules*, National Law Journal (July 16, 2010)
- 2010 Quoted in *The ethics of Web 2.0*, Lawyers USA (July 2010)
- 2010 Quoted in *Nine Kinds of Clients to Avoid*, Missouri Lawyers Weekly (June 28, 2010)
- 2010 Quoted in *Avoiding Withdrawal Pains*, Illinois Bar Journal (May 2010)
- 2010 Quoted in *Risk-Averse Lawyers Surf Net Into Stormy Ethical Seas*, ABA Journal Online (May 13, 2010)
- 2010 Quoted in *Lawyers' Ethical Stumbles Increase Online*, National Law Journal (May 11, 2010)
- 2010 Quoted in *Does Connecticut Hate the Net*, ABA Journal (April 2010)
- 2010 Quoted in *What should the judicial system in Missouri do to halt a rash of thefts by court clerks?*, Missouri Lawyers' Media (February 22, 2010)
- 2009 Quoted in *Tight times tempt lawyers to cut corners*, St. Louis Daily Record (December 21, 2009)
- 2009 Quoted in *Texting your clients: convenient, yes, but risky too*, Lawyers USA (November 15, 2009)
- 2009 Quoted in *Law firms vulnerable to embezzlement*, Michigan Lawyers Weekly (October 26, 2009)
- 2009 Guest on *Social Media Crashes The Courtroom*, NPR's Talk of the Nation (September 17, 2009)
- 2009 Quoted in *What happens to a firm if a lawyer doesn't file taxes?*, Minnesota Lawyer (September 7, 2009; also published in the South Carolina Lawyers Weekly (October 19, 2009)
- 2009 Quoted in *A Legal Battle: Online Attitude v. Rules of the Bar*, New York Times (September 13, 2009)
- 2009 Quoted in *Listserv postings raise ethical issues*, Lawyers USA (August 2009)
- 2009 Quoted in *Law firms make easy pickings for embezzlers*, National Law Journal (June 8, 2009)
- 2009 Quoted in *Take a break, advises Missouri attorney*, Missouri Lawyers Weekly (May 21, 2009)
- 2009 Quoted in *Downey explores dangers of online networking*, Missouri Lawyers Weekly (April 13, 2009); modified version of article published as *The dangers of online networking*, Lawyers USA (April 13, 2009)
- 2009 Quoted in *Federal judges approve new conduct rules*, St. Louis Daily Record (March 24, 2009)
- 2009 Quoted in *Doing Well By Doing Good: Volunteering on community boards gets your name out*, Missouri Lawyers Weekly (February 23, 2009)
- 2009 Quoted in *Clients, Law Firms Get 'Savage' As Legal Malpractice Claims Increase*, ABA Journal (On-Line February 17, 2009)

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- 2009 Quoted in *Hot or not? What Missouri lawyers expect to be up, down legal areas in 2009*, Kansas City Daily Record (January 5, 2009)
- 2009 Quoted in *Missouri law firms to increase focus on value, strategy*, Kansas City Daily Record (January 5, 2009)
- 2008 Quoted in *Observers Mull Impacts of Multinational Practice and Suggest Possible Alternatives*, ABA/BNA Reporter (December 2008)
- 2008 Quoted in *Web-Scamming the Lawyers: Even attorneys can be bilked in phony-check schemes*, ABA Journal (November 2008)
- 2008 Quoted in *Not rich? You still need a will*, MSN Money (March 4, 2008)
- 2007 Quoted in *A Need for a Will? Often, There's an Online Way*, New York Times (October 14, 2007)
- 2007 Quoted in *What's Your Duty Under Himmel*, Illinois Bar Journal (June 2007)
- 2007 Appeared and quoted in *Client case information from disbarred lawyer is found discarded*, KMOV-TV News 4 Evening News at 6 PM and 10 PM (broadcast March 19, 2007)
- 2007 Quoted in *Supreme Court passes overhaul of ethics guidelines*, Missouri Lawyers Weekly (March 19, 2007)
- 2007 Quoted in *Client surveys slow to catch on as a legal marketing tool*, Lawyers' Weekly USA (January 29, 2007)
- 2006 Quoted in *Does a Sitting Judge Have a Right to Write?* St. Louis Daily Record (December 29, 2006)
- 2006 Quoted in *Attorneys may review 'metadata,' ABA says*, St. Louis Daily Record (November 11, 2006)
- 2006 Quoted in *The Scarlet D: Court to consider placing disciplinary records online*, Missouri Lawyers Weekly (March 27, 2006)
- 2005 Quoted in *Spam I Am: Mass E-Mail Marketing Can Make Sense, But it Can Be Solicitation in Some States*, ABA Journal (January 2005)
- 2004 Quoted in *Standing out in the crowd gets harder for lawyers who advertise*, Chicago Daily Law Bulletin (September 8, 2004)
- 2004 Quoted in *SEC ruling could blur attorney-client confidentiality*, St. Louis Business Journal, St. Louis, Missouri (January 12, 2004); article also appeared in the East Bay (California) Business Journal (March 1, 2004) Nashville Business Journal (March 26, 2004); and Business First of Columbus (Ohio) (April 19, 2004)
- 2003 Appeared and quoted in *Missouri Lawyers' Weekly* segment on Lawyer Advertising, KTVI Fox 2 News at 9 PM, St. Louis, Missouri (broadcast December 17, 2003)

RULEMAKING ACTIVITIES

- 2013 Submission as Chair-Elect of the ABA Law Practice Division to amend ABA Model Rule of Professional Conduct 1.17 (August 2013)
- 2010 Testimony to the American Bar Association Commission on Ethics 20/20 regarding technology issues for solo practitioners
- 2009 Consultant and primary author, Missouri Public Service Commission Ex Parte and Extra-Record Communications Rule (codified as 4 CSR 240-4.020)
- 2007 Letter to the Missouri Bar regarding proposed rules relating to limited scope engagements
- 2004 Letters to the Missouri Bar regarding possible adoption of proposed changes to the Missouri Supreme Court Rules on Advertising, Rules 4-7.1 to 4-7.3 (co-author)
- 2003 Letter to the Missouri Bar regarding possible adoption of August 2003 amendments to Model Rules of Professional Conduct 1.6 and 1.13 (primary author)
- 2003 Letter to the Missouri State Board of Accountancy regarding possible adoption of AICPA Code of Professional Conduct as ethical code for Missouri accountants

HONORS & AWARDS

- 2015 Named a Fellow in the College of Law Practice Management
- 2014- Named a "Super Lawyer" by *Super Lawyers* magazine
Top 50 Lawyer in St. Louis (2015)
- 2013 Named a "2014 Most Influential Lawyer" by *Missouri Lawyers Weekly*
- 2013- Rated AV by Martindale-Hubbell
- 2013 Distinguished Legal Writing Award from the Burton Awards for Legal Achievement for the article *Ethical Rules for Litigating in the Court of Public Opinion*
- 2005 Inaugural Fellow, First Annual Workshop on Teaching Ethics and Professionalism, National Institute for the Teaching of Ethics and Professionalism, Atlanta, Georgia

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MICHAEL P. DOWNEY
Downey Law Group LLC
49 North Gore Avenue, Suite 2
St. Louis, Missouri 63119
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(314) 482-5449 direct/cell
mdowney@downeylawgroup.com

**TESTIMONY AS EXPERT WITNESS
AS OF SEPTEMBER 2016**

In-Person (before Tribunal or at Deposition)

1. *Ron Cote v. Hazelton & Laner*, Case No. 14BA-CV04154 (Circuit Court of Boone County, Missouri 2016). Provided deposition testimony regarding formation of the attorney-client relationship, duties owed to clients and non-clients, and standard of care issues in a malpractice case relating to the transfer of a business. Retained by defendants' counsel Fox Galvin LLC (contact Erica Reynolds).
2. *AAA Arbitration No. 14-194-00075-13* (2016). Prepare report and testify regarding duty of partner to disclose information regarding clients' malfeasance to partners; formation of the attorney-client relationship; duty to resign from firm when indicted; and duty not to use client-related information to disadvantage of client. Retained by Jacobs Law Group (contact Gene Linkmeyer).
3. *Ann Greenspan v. Aaron Greenspan*, Case No. 1522-PN01941 (Circuit Court of the City of St. Louis, Missouri 2015). Testified in opposition to motion to disqualify based upon meeting with prospective but declined client. Retained by Hais Hais & Goldberger PC (contact Sam Hais).
4. *Daniel Finney v. Russell Watters et al.*, Case No. 1222-CC09426 (Circuit Court of the City of St. Louis, Missouri 2014). Provided deposition testimony primarily regarding a lawyer's duties of candor to a tribunal and to third parties and regarding conflict of interest issues in a lawsuit brought against another attorney for malicious prosecution and fraud. Retained by plaintiff Daniel Finney, attorney litigating *pro se*.
5. *In re Revocation of Permit No. 84777, New Life Evangelical Center, Respondent* (St. Louis City Board of Public Service, Missouri 2014). Testified at a public hearing regarding conflict of interest rules for a lawyer who moves from government to private practice in opposition to motion to disqualify filed by respondent. Retained by petitioner's counsel Bick & Kistner (contact Elkin Kistner).
6. *Cockriel & Christofferson, LLC v. Bowlin*, Case No. 12 SL-CC03097 (Circuit Court of St. Louis County, Missouri 2012 and 2013). Provided deposition testimony regarding

standard of care and fiduciary duties relating to investigation of a client's case and relating to billing for legal services; testified in court proceeding regarding law firm's attempt to recover attorney fees on their engagement agreement. Retained by defendant/counterclaimant's counsel the Kirksey Law Firm (contact Jay Kirksey).

7. *Estate of Bonifer v. Kullman, Klein & Dioneda*, Case No. 11SL-CC02443 (Circuit Court of St. Louis County, Missouri 2012). Provided deposition testimony regarding standard of care and fiduciary duties when plaintiff firm learns its client has died and that spouse may be implicated in death. Retained by plaintiffs' counsel Cosgrove Law, LLC (contact Mary Hodges).

8. *Choice Homes, LLC v. Capes Sokol Goodman & Sarachan*, Case No. 09SL-CC00574 (Circuit Court of St. Louis County, Missouri 2011). Provided deposition testimony regarding duties of law firm upon realizing it had compromised client's claim. Retained by plaintiffs' counsel Rosenblum Goldenhersh Silverstein & Zafft, P.C. (contact David Oetting).

9. *Ruzicka v. Orco Investment Company*, Case No. 06CC-000023 (Circuit Court of St. Louis County, Missouri 2008). Prepared expert report and provided deposition testimony regarding ethical and fiduciary obligations of lawyer including when representing a corporation and its shareholder. Retained by plaintiffs' counsel Foley & Mansfield, PLLP (contact C. Raymond Bell).

10. *Foner v. Joseph*, Case No. 03FC-012101 (Circuit Court of St. Louis County, Missouri 2007-08). Testified in November 2007 court proceeding and submitted a supplemental expert declaration in January 2008 in response to a motion to disqualify Hais, Hais, Kallen & Goldberger, P.C. Testimony focused primarily on Missouri Supreme Court Rules 4-1.9 and 4-1.10. Retained by Hais, Hais, Kallen & Goldberger, P.C. (contact Sam Hais).

Submission of Report or Affidavit Only

1. *Oetting v. Heffler, Radetich & Saitta, LLP*, Case No. 2:11-cv-04757-JD (U.S. District Court, Eastern District of Pennsylvania 2016). Prepared expert report concerning relationship between class action claims administrator and class and fiduciary obligations claims administrator owes to class. Retained by Tomlinson Law, LLC (contact Frank H. Tomlinson).

2. *D.L. v. District of Columbia*, Civil Action No. 05-1437 (U.S. District Court, District of Columbia 2016). Prepared updated affidavit in support of attorney fee petition from plaintiffs' counsel Terris, Pravlik & Millian, LLP. Retained by Terris Pravlik & Millian, LLP (contact Michael Huang).

3. *Cori v. Martin*, Case No. 2016 MR 000111 (Circuit Court of Madison County, Illinois) Prepared affidavit in opposition to motion to disqualify counsel, focusing

primarily on Illinois Rule of Professional Conduct 1.9. Retained by Spencer Fane LLP (contact Erik Solverud).

4. [Forthcoming – Missouri arbitration] Prepared affidavit regarding the enforceability of a fee-sharing arrangement between attorneys not associated in the same law firm for an arbitration matter. *Disclosure incomplete because retaining counsel has not yet clarified my obligations under confidentiality requirements.*

5. *In re Coolfire Media, LLC, Form I-129 Petition for Nonimmigrant Worker* (2015). Prepared affidavit regarding educational and experience requirements for international law clerk. Retained by Hacking Law Practice LLC (contact James Hacking).

6. *Petition for Fees of Rogers Cartage*, Case No. (Circuit Court of St. Clair County, Illinois 2015). Prepared affidavit in opposition to petition for attorney fees submitted. Retained by Dentons US LLP (contact Geoffrey Repo).

7. *Monroy v. Hi-Gene's Janitorial Services, Inc.*, Case No. 14-cv-36 (U.S. District Court, Western District of Missouri 2015) Prepared an affidavit in support of attorney fee petition from plaintiffs' counsel Brady & Associates (contact Michael Brady).

8. *Anderson v. Seasons Care Center, LLC*, Case No. 14-cv-269 (U.S. District Court, Western District of Missouri 2014) Prepared an affidavit in support of attorney fee petition from plaintiffs' counsel Brady & Associates (contact Michael Brady).

9. *Jancich v. Stonegate Mortgage Corporation*, Case No. 11-CV-2602 (U.S. District Court, District of Kansas 2014) Prepared an affidavit in support of attorney fee petition from plaintiffs' counsel Brady & Associates (contact Michael Brady).

10. *Montoya v. Nation Pizza Products, L.P.*, Case No. 13-CV-2036 (U.S. District Court, District of Kansas 2014). Prepared an affidavit in support of attorney fee petition from plaintiffs' counsel Brady & Associates (contact Michael Brady).

11. *Marvin M. Klamen v. William K. Halliburton, et al.*, Case No. 11SL-CC01073 (Circuit Court of St. Louis County, Missouri 2014). Prepared an affidavit at the request of defendant's counsel Menees, Whitney, Burnet & Trog (contact Hardy Menees) in support of a response in opposition to a motion for partial summary judgment. The affidavit discussed issues relating to formation of a client-lawyer relationship, obligations owed to a client, the impact of Missouri Rule 4-5.7 on such issues, and a lawyer's duties to a tribunal under Missouri Rules 4-3.1 and 4-3.3.

12. *Montgomery v. United States of America*, Case No. 14-2437 (U.S. Court of Appeals for the Eighth Circuit 2014). Prepared an affidavit in support of petition for mandamus from petitioner's counsel (contact Kelley J. Henry, Office of the Federal Public Defender, Nashville, Tennessee) regarding conduct of trial counsel during post-conviction proceedings alleging ineffective assistance of that trial counsel.

13. *Manning v. Federal Savings Bank*, Case No. 12-cv-2640 (U.S. District Court, District of Kansas 2014). Prepared an affidavit in support of attorney fee petition from plaintiffs' counsel Brady & Associates (contact Michael Brady).
14. *Alewell v. Dex One Services, Inc.*, Case No. 13-CV-2312 (U.S. District Court, District of Kansas 2014). Prepared an affidavit in support of attorney fee petition from plaintiffs' counsel Brady & Associates (contact Michael Brady).
15. *Jacobs v. Brown Bag Liquor, LLC*, Case No. 2:12-CV-2311 (U.S. District Court, District of Kansas 2013). Prepared an affidavit in support of attorney fee petition from plaintiffs' counsel Brady & Associates (contact Michael Brady).
16. *Barbosa v. National Beef Packing Company, LLC*, Case No. 12-cv-2640 (U.S. District Court, District of Kansas 2013). Prepared an affidavit in support of attorney fee petition from plaintiffs' counsel Brady & Associates (contact Michael Brady).
17. *Shackleford v. Cargill Meat Solutions Corp.*, 12-CV-4065-FJG (U.S. District Court, Western District of Missouri 2013) Prepared an affidavit in support of attorney fee petition from plaintiffs' counsel Brady & Associates (contact Michael Brady).
18. *State of Missouri v. Haynes*, Case No. 12BA-CR03795 (Circuit Court of Boone County, Missouri 2012). Prepared an affidavit in support of a petition for withdrawal of attorney Rodney Massman (contact at Missouri State Board of Nursing), who had been appointed to represent defendant in a criminal case.
19. *D.L. v. District of Columbia*, Civil Action No. 05-1437 (U.S. District Court, District of Columbia 2012). Prepared an affidavit in support of attorney fee petition from plaintiffs' counsel Terris, Pravlik & Millian, LLP (contact Carolyn Smith Pravlik).
20. *McDonald v. The Kellogg Company*, Case No. 08-CV-2473 JWL-JPO (U.S. District Court, District of Kansas 2012). Prepared an affidavit in support of attorney fee petition from plaintiffs' counsel Brady & Associates (contact Michael Brady).
21. *Sanderson v. Unilever Supply Chain, Inc.*, Case No. 10-CV-00775-FJG (U.S. District Court, Western District of Missouri 2011). Prepared an affidavit in support of attorney fee petition from plaintiffs' counsel Brady & Associates (contact Michael Brady) in wage and hour case.
22. *Fulton v. TLC Lawn Care, Inc.*, Case No. 10-2645-KHV-JPO (U.S. District Court, District of Kansas 2011). Prepared an affidavit in support of attorney fee petition from plaintiff's counsel Brady & Associates (contact Michael Brady).
23. *Sanderson v. Conopco, Inc.*, Case No. 4:10-CV-775 (U.S. District Court, Western District of Missouri 2011). Prepared an affidavit in support of attorney fee petition from plaintiff's counsel Brady & Associates (contact Michael Brady).

24. *Sokol v. Sachs*, Case No. 0931-CV-02336 (Circuit Court of Green County, Missouri 2009). Prepared an affidavit regarding notice, confidentiality, and related issues that arise when a lawyer leaves a law firm. Retained by defendant Aaron Sachs & Associates and its counsel the Placzek Law Firm (contact Mathew Placzek).

#

CERTIFICATE OF SERVICE

I hereby certify that on May 21, 2018, I caused a true copy of the foregoing volume of the joint appendix to be delivered electronically via the Court's CM/ECF system to counsel for defendants-appellees, Loren AliKhan, Stacy L. Anderson, and Lucy Pittman, and counsel for *amici* for appellants, Michael Kirkpatrick.

/s/ Todd A. Gluckman
TODD A. GLUCKMAN, Circuit Bar No. 56780
Terris, Pravlik & Millian, LLP
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