THE DISTRICT OF COLUMBIA

BEFORE

THE OFFICE OF EMPLOYEE APPEALS

In the Matter of:	
EMPLOYEE,	OEA Matter No. 1601-0040-20A24
	Date of Issuance: March 24, 2026
v.	
	JOSEPH E. LIM, ESQ.
DEPARTMENT OF FOR-HIRE VEHICLES, Agency	Senior Administrative Judge

Ann-Kathryn So, Esq., Employee Representative
Connor Finch, Esq., Agency Representative

ADDENDUM DECISION ON ATTORNEY FEES

INTRODUCTION AND PROCEDURAL HISTORY

Employee, a Human Resources Specialist[1] in the Department of For-Hire Vehicles ("Agency" or "DFHV"), filed a Petition for Appeal with the Office of Employee Appeals ("OEA" or "Office") on April 9, 2020, appealing Agency's decision to terminate her from service effective March 13, 2020. Employee was terminated for: 1) Unauthorized absence of one (1) workday or more, but less than five (5) days; (2) Any on-duty or employment related reason for corrective or adverse action that is not arbitrary or capricious; (3) Knowing submission (or causing or allowing the submission) of falsely stated time logs, leave forms, travel or purchase vouchers, payroll, loan, or other fiscal documents; and (4) Knowingly and willfully reporting false or misleading material information to a superior.[2] On June 16, 2020, OEA requested that Agency submit an Answer to Employee's Petition for Appeal. Agency submitted its Answer on or about August 28, 2020.

After Agency declined mediation on March 26, 2021, this matter was assigned to the undersigned on March 30, 2021. I held a Prehearing Conference on May 3, 2021, and a virtual Evidentiary Hearing via WebEx[3] on July 7 and 8, 2022. On October 3, 2022, I issued an Initial Decision ("ID") reversing Agency's removal of Employee after I found that none of Agency's

[1] Employee Exhibit 27.
[2] Agency Exhibit 14.
[3] WebEx is a software program that enables participants to engage in a hearing or meeting remotely via an electronic device.

charges against Employee were warranted.[4] On December 7, 2022, Agency filed a Petition for Review to the Superior Court of the District of Columbia ("Superior Court") seeking review of the reversal of the termination.[5]

On December 7, 2022, Employee filed a Motion for Attorney Fees in the amount of $135,223.70 in attorney's fees and costs. Agency submitted its response to the fee petition on December 29, 2022. On April 4, 2023, I issued an Addendum Decision on Attorney Fees wherein I dismissed the Motion for Attorney Fees without Prejudice as the matter was still pending before the D.C. Superior Court.[6]

On June 27, 2024, the D.C. Superior Court denied Agency's Petition for Review and upheld the ID.[7] On August 15, 2024, Employee filed a Petition for Compliance, alleging that despite the ID becoming final, Agency had failed to comply with the ID. On September 19, 2024, I ordered Agency to submit status reports on compliance. Starting from October 18, 2024, Agency submitted periodic reports on its efforts towards full compliance with the ID.

On August 26, 2024, Employee submitted a second Motion for Attorney Fees in the amount of $203,919.90 in attorney fees and $3,558.66 in costs. After Agency objected, Employee amended her fee petition to $188, 631.90 in attorney's fees and $5077.29 in costs. On October 14, 2025, Employee agreed that Agency had fully complied with the October 3, 2022, ID. Accordingly, on October 21, 2025, I dismissed Employee's Motion for Compliance.[8]

On October 24, 2025, Employee submitted her final revised Motion for Attorney Fees in the amount of $199,848.80 in attorney's fees and in costs. On November 24, 2025, Agency submitted its final Opposition to Employee's Fourth Fee Petition. The record is closed.

JURISDICTION

The Office has jurisdiction in this matter pursuant to D.C. Official Code § 1-606.03 (2001).

ISSUE

Whether an attorney fee award is warranted, and if so, whether the amount requested is reasonable.

FINDINGS OF FACT, ANALYSIS AND CONCLUSIONS OF LAW

D.C. Official Code § 1-606.8 provides that: "[An Administrative Judge of this Office] may require payment by the agency of reasonable attorney fees if the appellant is the prevailing party and payment is warranted in the interest of justice." *See also* OEA Rule 639.1, 68 DCR 012473 (December 27, 2021), 6-B DCMR Ch. 600.

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[4] *Employee v. District of Columbia Dep't For Hire Vehicles*, OEA Matter 1601-0040-20 (Oct. 3, 2022).
[5] *Dept. of For Hire Vehicles v. DC OEA & Eileen Perry*, Case Number 2022 CAB 005771.
[6] *Employee v. District of Columbia Dep't For Hire Vehicles*, OEA Matter 1601-0040-20A23 (Apr. 4, 2023).
[7] Memorandum Opinion and Order, *Employee v. District of Columbia Dep't For Hire Vehicles*, D.C. Super. Ct. Case No. 2022-CAB-005771 (June 27, 2024).
[8] *Employee v. District of Columbia Dep't For Hire Vehicles*, OEA Matter 1601-0040-20C24 (Oct. 21, 2025).

1. Prevailing Party

"[F]or an employee to be a prevailing party, he must obtain all or a significant part of the relief sought. . . ." *Zervas v. D.C. Office of Personnel*, OEA Matter No. 1602-0138-88AF92 (May 14, 1993). *See also Hodnick v. Federal Mediation and Conciliation Service*, 4 M.S.P.R. 371, 375 (1980). Employee filed an appeal seeking reinstatement to her position and recovery of all benefits lost due to Agency's termination of her employment. Agency has accepted the Initial Decision and has reinstated Employee to her prior position and restored any benefits she has lost as a result of its adverse action. Based on the record of this case, I conclude that Employee is a prevailing party.

2. Interest of Justice

In *Allen v. United States Postal Service,* 2 M.S.P.R. 420 (1980), the Merit Systems Protection Board ("MSPB)", this Office's federal counterpart set out several circumstances to serve as "directional markers toward the 'interest of justice' (the "Allen Factors") - a destination which, at best, can only be approximate." *Id*. at 435. The circumstances to be considered are:

1. Where the agency engaged in a "prohibited personnel practice";

2. Where the agency's action was "clearly without merit" or was "wholly unfounded", or the employee is "substantially innocent" of the charges brought by the agency;

3. Where the agency initiated the action against the employee in "bad faith", including:

    a. Where the agency's action was brought to "harass" the employee;

    b. Where the agency's action was brought to "exert pressure on the employee to act in certain ways";

4. Where the agency committed a "gross procedural error" which "prolonged the proceeding" or "severely prejudiced the employee";

5. Where the agency "knew or should have known that it would not prevail on the merits", when it brought the proceeding, *Id.* at 434-35.

This matter began when Agency terminated Employee for 1) Unauthorized absence of one (1) workday or more, but less than five (5) days; (2) Any on-duty or employment related reason for corrective or adverse action that is not arbitrary or capricious; (3) Knowing

submission (or causing or allowing the submission of) falsely stated time logs, leave forms, travel or purchase vouchers, payroll, loan, or other fiscal documents; and (4) knowingly and willfully reported false or misleading material information to a superior.[9] After Employee filed her appeal with this Office, I found that none of Agency's charges against Employee were warranted and ordered Employee's reinstatement to her position.[10]

Therefore, Agency committed a "gross procedural error" which "severely prejudiced the employee." The prejudice suffered by Employee was the loss of her job. Another ground that applies here is that the agency "knew or should have known that it would not prevail on the merits", when it brought the proceeding. In this matter, Agency not only brought the proceeding against Employee, it went on to appeal the ID with the Superior Court even though my fact findings were supported by substantial evidence. This further unnecessarily prolonged and increased the costs of litigation for Employee. Therefore, I further conclude that an award of reasonable attorney fees is warranted in the interest of justice.

REASONABLENESS OF ATTORNEY FEES

Employee's Attorney Fee Request

The party seeking an award of attorney fees bears the burden of proving that the requested fees are reasonable. *Joyce v. Department of the Air Force*, 74 M.S.P.R. 112 (1997). Employee's submission was detailed and included the specifics of the services provided on Employee's behalf. Employee's final Attorney Fee Petition requested an award of $199,848.80 in attorney fees and costs for services performed from the beginning of her appeal through October 24, 2025. This covered legal services provided before this Office and before the D.C. Superior Court. Employee claims that her counsel expended approximately 494.50 hours at the hourly rates based on the Fitzpatrick Matrix.[11]

Although Agency did not dispute that Employee was the prevailing party, and that an award of a reasonable attorney's fee and costs was warranted, Agency argued that this fee request amount is excessive and unreasonable and should be dramatically reduced. While Agency does not contest the use of the Fitzpatrick Matrix for attorney hourly rates, Agency asserts that the hours claimed for a case that was not complex should be reduced as the hours are excessive, especially those associated with Employee's filing of multiple fee petitions.

Hourly Rate

The burden is on the fee applicant to produce satisfactory evidence that the requested rates are in line with those prevailing in the community for similar services by lawyers of reasonably comparable skill, experience, or reputation.[12] The reasonableness of a fee request may be assessed by considering two objective variables, those being the customary billing rate of

[9] Agency Exhibit 14.
[10] *Employee v. District of Columbia Dep't For Hire Vehicles*, OEA Matter 1601-0040-20 (Oct. 3, 2022).
[11] A fee schedule used by many United States courts since 2023 for determining the reasonable hourly rates in the District of Columbia for attorneys' fee awards under federal fee-shifting statutes.
[12] *Blum v. Stenson,* 465 U.S. 886 (1984).

the attorney and the number of hours reasonably devoted to the case.[13] An attorney's customary billing rate may be established by showing the hourly rate at which the attorney actually billed other clients for similar work during the period for which the attorney fees are requested, or, if the attorney has insufficient billings to establish a customary billing rate, then by affidavits from other attorneys in the community with similar experience stating their rate for similar clients.[14] The best evidence of the prevailing hourly rate is ordinarily the hourly rate customarily charged in the community in which the attorney whose rate is in question practices.[15]

The OEA Board had determined that the Administrative Judges of this Office may consider the so-called "*Laffey* Matrix" in determining the reasonableness of a claimed hourly rate. The *Laffey* Matrix, used to compute reasonable attorney fees in the Washington, D.C.-Baltimore Metropolitan Area, was initially proposed 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 an "x-y" matrix, with the x-axis being the years (from June 1 of year one to May 31 of year two, *e.g*, 92-93, 93-94, etc.) during which the legal services were performed; and the y-axis being the attorney's years of experience. The axes are cross-referenced, yielding a figure that is a reasonable hourly rate. The matrix also contains rates for paralegals and law clerks.

However, the *Laffey* Matrix has been criticized as outdated. Thus, sometime in 2023, civil litigation involving the Federal Government in the District of Columbia began using the *Fitzpatrick* Matrix.[16] It also uses the "x-y" matrix, with the x-axis being the years during which the legal services were performed; and the y-axis being the attorney's years of experience. The axes are cross-referenced, yielding a figure that is a reasonable hourly rate.

Because Agency does not object to Employee's use of the *Fitzpatrick* Matrix, this Office will adopt its attorney hourly rates claimed by Employee as reasonable. Employee backs up her hourly rate request with an affidavit from her attorneys at Crowley So, LLP, enumerating their legal education and experience.[17] The affidavit shows that Employee's attorneys have years of legal experience in the field of employment law ranging from one (1) to 18 years.

Employee is asking that her attorneys be compensated depending on experience at an hourly rate ranging from $200/hour to $707/hour for services rendered.[18] The U.S. District Court in the District of Columbia has held that the court has the discretion to determine whether or not attorney hourly rates are warranted, and whether or not the hours claimed are reasonable.[19] Since Agency does not dispute the attorney's claimed years of experience in employment law, Employee's claimed hourly rates are accepted.

Number of hours expended

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[13] *Casali v. Department of Treasury*, 81 M.S.P.R. 347 (1999).
[14] *Id.* at 352.
[15] *Save Our Cumberland Mountains v. Hodel,* 857 F.2d 1516 (D.C. Cir. 1988).
[16] Employee Fee Petition, Exhibit 6.
[17] Employee Fee Petition, Exhibit C. Hannon Law Group, LLP became Crowley So, LLP in April 2024.
[18] *Id*, Exhibit 5, Exhibit B.
[19] See *Harvey v. Mohammed*, 951 F.Supp.2d 47 (2013).

Employee's counsel lists the hours and the type of work performed by month and year. Agency registers its opposition to the amounts claimed before and after Employee's filing of her second and third fee petition. While the Agency did not deny that Employee was entitled to some attorney's fees for time expended incidental to this matter, Agency challenged the number of claimed hours of legal service time as excessive.

This Office's determination of whether Employee's attorney fees request is reasonable is based upon a consideration of the number of hours reasonably expended on the litigation, multiplied by a reasonable hourly rate.[20] Although it is not necessary to know the exact number of minutes spent nor the precise activity to which each hour was devoted, the fee application must contain sufficient detail to permit an informed appraisal of the merits of the application.[21] The number of hours reasonably expended is calculated by determining the total number of hours and *subtracting nonproductive, duplicative, and excessive hours.* [emphasis added][22] An attorney's fee request is to be reduced as necessary to disallow duplication or padding.[23] Thus, the amount of fees claimed is to be reduced where the record does not show that the expenditure of the claimed hours was necessary.[24] The number of hours claimed may be reduced even where those hours are not outrageous or unprecedented, but where there is insufficient evidence to establish that they are reasonable.[25]

As noted above, Employee filed a Petition for Compliance on August 15, 2024, alleging that despite the ID becoming final, Agency has failed to comply with the ID. Considering that the Superior Court had upheld the ID on June 27, 2024, it was reasonable for Employee to expect Agency to comply with the Initial Decision. Thus, Employee was justified in filing the Petition for Enforcement a month and a half after the ID became final. Thus, after examining the fee petition, I find that the hours claimed for the Enforcement/Compliance Petition are justified.

However, Agency decries Employee's filing of a second Enforcement Petition on May 7, 2025, and its attendant attorney hours despite its good faith efforts to achieve compliance. Employee justified its second Enforcement Petition to the extraordinary length of time it has taken the Agency to comply with the ID. Agency explained that administrative difficulties arose based largely on the fact that Employee worked for multiple other District government agencies after her removal by Agency in 2020. Because of this, Agency had worked closely with Employee, the District of Columbia Department of Human Resources ("DCHR"), and the Office of Pay and Retirement Services ("OPRS") to undertake all steps necessary to achieve compliance.

Agency also objects to the attorney hours Employee undertook to prepare her August 26, 2024, second and third Motion for Attorney Fees, especially since Employee was aware that Agency had not yet fully complied with the ID. Agency asserts that the fee motion was premature and thus unnecessarily duplicative, as Employee should have waited until full

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[20] *Copeland v. Marshall,* 641 F.2d 880 (D.C. Cir. 1980). *See also Hensley v. Eckerhart,* 461 U.S. 424 (1983); *National Association of Concerned Veterans v. Secretary of Defense*, 675 F.2d 1319 (D.C. Cir. 1982).
[21] *Copeland, supra.*
[22] *Henderson v. District of Columbia*, 493 A.2d 982 (D.C. 1985).
[23] *Hooks v. United States Postal Service*, 42 M.S.P.R. 225, 228 (M.S.P.B 1989).
[24] *Wright v. Dep't of Transp.*, BN0752860058A1, 1992 WL 63180 (M.S.P.B. Mar. 25, 1992).
[25] *Rose v. Department of the Navy,* 47 M.S.P.R. 5, 13 (1991).

compliance before filing her attorney fee petition. It asserts that the 126 hours claimed by Employee's attorneys for administrative tasks or vaguely defined services like "status update," "strategize," "coordinate," "consider," or "email" and 66.5 hours of time spent billing for requesting attorney's fees before filing the Second Fee Petition are excessive and should be disallowed or sharply reduced. Agency also decried the hours claimed by Employee for drafting a Motion for Compliance and an unnecessary third Attorney Fee petition while her Motion for Compliance was still outstanding.

As the U.S. District Court in the District of Columbia noted, "When claims for attorney's fees are brought against the government, courts should exercise special caution in scrutinizing the fee petition. This is because of the incentive which the [agency's] deep pocket offers to attorneys to inflate their billing charges and to claim far more as reimbursement [than] would be sought or could reasonably be recovered from most private parties."[26] The Court in *Harvey* held that "[f]or purposes of fee award…, it is inadequate to merely state in billing documentation that a meeting occurred without specifying the subject-matter or purpose."[27]

Agency's arguments are well-founded. However, Agency failed to delineate the excessive attorney hours that it alleges Employee undertook in preparing and filing her second Enforcement Petition or her second attorney fee request. A review of Employee's billing sheets would indicate that Employee spent about 15 attorney hours with a total of $31,320 for these tasks. Thus, I have determined that $31,320 in attorney fees should be denied. However, all costs associated with the parties' communication with the undersigned are allowed. This is not to cast any aspersion on the attorney's billing practice. I simply conclude that Employee has not sufficiently met her burden of proving that all her claimed hours is reasonable as required under D.C. Official Code § 1-606.08.[28]

Lastly, Agency objects to about $2,000 in additional costs above what was requested through the Second Fee Petition. However, Agency fails to specify what it is about these additional costs that it finds objectionable. Thus, all costs that Employee claims in this matter are allowed.

In conclusion, I find that of the $199,848.80 in attorney's fees and in costs claimed by Employee, $31,320 in attorney fees are disallowed with the balance of attorney fees and costs substantiated.

ORDER

It is hereby ORDERED that Agency pay Employee, within thirty (30) days from the date on which this addendum decision becomes final, **one hundred and sixty-eight thousand, five hundred twenty-eight dollars and eighty cents ($168,528.80) in attorney fees and costs**.

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[26] *Eureka Inv. Corp., N.V. v. Chicago Title Ins. Co.,* 743 F.2d 932, 941 (D.C.Cir.1984) (internal citation omitted).
[27] *Supra*, Harvey at headnote 32.
[28] *See, e.g., Copeland v. Marshall,* 641 F.2d 880, 903 (D.C.Cir.1980) (en banc) ("[T]he District Court Judge in this case—recognizing, as he did, that some duplication or waste of effort had occurred—did not err in simply reducing the proposed ... fee by a reasonable amount without performing an item-by-item accounting."); *see also Okla. Aerotronics,* 943 F.2d at 1347 (affirming the district court's flat forty percent reduction in allowable hours).

FOR THE OFFICE:

S/Joseph Lim
JOSEPH E. LIM, ESQ.
Senior Administrative Judge