

**Office of Special Masters
Attorneys' Forum Hourly Rate Fee Schedule: 2019**

Attorneys with:

31+ years of experience in practice	\$415 – \$464
20 – 30 years of experience in practice	\$378 – \$448
11 – 19 years of experience in practice	\$324 – \$405
8 – 10 years of experience in practice	\$297 – \$378
4 – 7 years of experience in practice	\$243 – \$324
Less than 4 years of experience in practice	\$162 – \$243
Paralegals	\$135 – \$156

Explanatory Notes

1. The schedule above applies to work performed for the calendar year 2019.
2. Beginning with the 2015-2016 Attorneys' Forum Hourly Rate Fee Schedule, the Office of Special Masters (OSM) prepared ranges of hourly rates for attorneys of varying experience and for paralegals for the purpose of evaluating motions for attorneys' fees in vaccine cases filed in the United States Court of Federal Claims. See 42 U.S.C. §§ 300aa-10 to -34 (2012) (National Childhood Vaccine Injury Act or the "Vaccine Act"); 42 U.S.C § 300aa-15(e)(1). The 2015-2016 schedule adopted the ranges set forth in McCulloch v. Sec'y of Health & Human Servs., No. 09-293V, 2015 WL 5634323 (Fed. Cl. Spec. Mstr. Sept. 1, 2015), which has been endorsed by all sitting special masters as of October 24, 2016.
3. The above 2019 rates were derived by adjusting the 2015-2016 Attorneys' Forum Hourly Rate Fee Schedule rates by the Producer Price Index – Offices of Lawyers ("PPI-OL"). Special masters have found the PPI-OL to be persuasive as a measure of inflation when re-calculating McCulloch rates for work performed in subsequent years. However, in every case, the decision of whether to use the PPI-OL or any other measure of inflation remains within each special master's discretion. There is no binding Federal Circuit guidance for Vaccine Act cases regarding the measure of inflation to be used in determining increases in attorney fee rates over time. Parrott v. Shulkin, 851 F.3d 1242,

1248 n.4 (Fed. Cir. 2017) (noting that the Federal Circuit has never addressed inflators in a Vaccine Act case).

4. The PPI-OL calculation of 2019 rates was derived by multiplying the 2015-2016 Attorneys' Forum Hourly Rate Fee Schedule rates by the PPI-OL index for September 2018 (215.8) and then dividing by the PPI-OL index for September 2015 (200), the month and year in which McCulloch was decided. Resulting rates were then rounded to the nearest whole dollar. The PPI-OL data is available at www.bls.gov/ppi/#data. The industry code for "Offices of Lawyers" is 541110.
5. The Federal Circuit has approved the use of the lodestar approach to determine the "reasonable attorneys' fees" under the Vaccine Act. Avera v. Sec'y of Health & Human Servs., 515 F.3d 1343, 1347 (Fed. Cir. 2008). Under this approach, a reasonable number of hours is multiplied by a reasonable hourly rate. Id. at 1347-48 (quoting Blum v. Stenson, 465 U.S. 886, 888 (1984)). "A reasonable hourly rate is 'the prevailing market rate,' defined as the rate 'prevailing in the community for similar services by lawyers of reasonably comparable skill, experience, and reputation.'" Id. at 1348 (quoting Blum at 896 n.11).
6. The rates listed herein are forum rates. The forum is the location in which the deciding tribunal sits, which is Washington, D.C. See Avera, 515 F.3d at 1353. Forum rates will be used in the lodestar formula except when the rates in an attorney's local area are significantly lower than the forum rates. See id. at 1349-50; Davis Cty. Solid Waste Mgmt. & Energy Recovery Special Serv. Dist. v. United States Env'tl. Prot. Agency, 169 F.3d 755, 758 (D.C. Cir. 1999). Forum rates are calculated in large part based on the years of experience of the attorney/paralegal and the corresponding hourly rate range. See Garrison v. Sec'y of Health & Human Servs., No. 14-762V, 2016 WL 3022076, at *8 (Fed. Cl. Spec. Mstr. Apr. 29, 2016), mot. for rev. denied, 2016 WL 4784054 (Fed. Cl. Aug. 17, 2016). The rationale for the use of hourly rate ranges is set forth in McCulloch. See 2015 WL 5634323.
7. The Laffey matrix and its more current permutations have been used as a model for this schedule, but the Laffey rates are not applicable in the Vaccine Program. See Rodriguez v. Sec'y of Health & Human Servs., No. 06-559V, 2009 WL 2568468 (Fed. Cl. Spec. Mstr. July 27, 2009), aff'd, 632 F.3d 1381 (Fed. Cir. 2011); Masias v. Sec'y of Health & Human Servs., No. 99-697V, 2009 WL 1838979 (Fed. Cl. Spec. Mstr. June 12, 2009), aff'd, 634 F.3d 1283 (Fed. Cir. 2011). The PPI-OL was adopted for calculating inflation rates for the Laffey matrix beginning in 2015. See USAO Attorney's Fees Matrix-2015-2016, available at <https://www.justice.gov/usao-dc/file/796471/download> (last accessed 4/6/2017), n.4. The PPI-OL was chosen for the updated Laffey matrix in preference to the previously used Consumer Price Index ("CPI"), because it better reflects the overall mix of services provided by the legal community and has historically been generous compared to other inflation indexes. Id., n.3.

8. The years of experience listed in this schedule refer to an attorney's years of experience practicing law, which generally will be calculated based on the year an attorney was admitted to the bar. Individual facts and circumstances may warrant an adjustment to the schedule.
9. As stated in McCulloch, the following factors are paramount in deciding a reasonable forum hourly rate: experience in the Vaccine Program, overall legal experience, the quality of work performed, and the reputation in the legal community and community at large. 2015 WL 5634323, at *17.