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MEMORANDUM

TO: INTERESTED PARTIES

FROM: KAREN BUDD-FALEN
BUDD-FALEN LAW OFFICES, LLC

DATE: MAY 14, 2012

RE: VETERANS, SENIORS AND BUGS

It is impossible to compare the contributions to America between our military veterans, our senior citizens, and bugs. Our veterans fought for our freedom; our seniors worked long and hard to make America economically independent; they were to be rewarded by the Social Security system that was designed to provide economic security to protect these hard working Americans from disasters they had endured such as the stock market crash and the Great Depression. Then there are bugs, worms, mold, beetles and plants.

A better comparison can be made between those engaged in the legal profession. The vast majority of attorneys have earned an undergraduate degree and an additional three- year law degree which makes them able to take the bar examination. Passage of a bar examination allows the attorney the ability to practice law before various state and federal courts. It matters not what area of the law a person practices,

the requirements are the same.

So rather than comparing the contributions to America by veterans, seniors and bugs, compare what the federal government pays the attorneys representing veterans, seniors and bugs to protect them.

-- Attorney hourly fees for work for Veterans

According to a Westlaw research project for the last 15 veteran's attorneys fees reported cases, the average hourly fee awarded to an attorney who represents a veteran in a suit against the federal government is \$172.74 per hour. The highest hourly fee award in that time period was \$180.26 and the lowest was \$166.72. These cases were all brought against United States Department of Veterans Affairs to secure benefits to individual veterans. The average total awarded fees to attorneys fighting for our veterans was \$12,046.90.

-- Attorney hourly fees for work for Seniors

The same research parameters were used to look at cases brought on behalf of Social Security beneficiaries who had to sue the Social Security Commission to get their federal benefits. According to the research, the average hourly attorney fee award to attorneys fighting for our Seniors was \$171.93 per hour, with the highest award being \$182.97 and the lowest being \$125.00. The average total fee awarded was \$6,154.97.

-- Attorney hourly fees for work for bugs

Compare that to the litigation brought by environmental attorneys, the majority of whom claims that they work for “non-profit law firms.” Using the same research parameters in Westlaw for Endangered Species Act cases, the average hourly attorney fee paid was \$490.73. The highest hourly fee charged was \$775.00 per hour and the lowest was \$350.00. The average total award of attorneys fees for a single case was \$645,711.00. Note this money does not go to on the ground protection for bugs, worms and plants; this is just for litigating cases.

And while it may not be an equal comparison between the statutes protecting veterans, seniors and bugs, it is interesting to note that the number of pages of federal regulations protecting veterans is 2,100; the number of pages of regulations relating to Social Security is 1,950, and the number of pages of regulations under the Endangered Species Act is 350—yet attorneys who litigate regarding the interpretation and

implementation of those 350 pages relating to the ESA receives an average of \$490.73 per hour while attorneys who litigate regarding the interpretation and implementation of the 2,100 pages of regulations for veterans and 1,950 pages of regulations for seniors get \$172.74 and \$171.93 per hour respectively. Put another way, environmental attorneys are paid almost 20 times MORE per page of regulations than veterans and social security attorneys.

The original purpose of the Equal Access to Justice Act (“EAJA”) was to protect individuals and small businesses from an overzealous application of law by federal agencies. According to testimony offered by members of the House of Representatives in support of EAJA, the purpose of the bill was to “equal the playing field” when American citizens had to file litigation against the federal government. For example, Congresswoman Chisholm (D-NY) testified that the bill encouraged an “affirmative action approach” to bring in those who had been “locked out of the decision making process by virtue of their income, their race, their economic scale or their educational limitations.” Representative Joseph McDade R-PA stated that the bill would help to improve citizen’s perceptions of his relationships with the federal government because it would require federal agencies to justify their actions and to compensate the individual or small business owner when the government is wrong. The intent of EAJA was to curb unreasonable and excessive bureaucratic application of regulations. If that is the case, why does the federal government pay a significantly greater amount per hour to

an attorney who is representing a bug
than to one who is representing a
veteran?

I have heard a lot of excitement about
the recent FOX news story
Environmental groups collecting
millions from federal agencies they sue,
studies show, as well as the Press
Release from Congresswoman Lummis
and Senator Barrasso describing Two
New Studies Identify Major Flaws in the
Equal Access to Justice Act: *To support
the nation's veterans, seniors and small
business, Lummis and Barrasso call for
swift passage of Government Litigation
Savings Act.* These numbers support
that premise. Call your Congressmen
and Senators. It is time to show our
veterans and seniors that they are more
important to the federal government
and the to tax paying citizens than bugs.