

**UNITED FOOD AND COMMERCIAL WORKERS
AND FOOD EMPLOYERS LABOR RELATIONS ASSOCIATION
LEGAL BENEFITS FUND**

July 25, 2022

**PROPOSAL TO UPDATE:
LEGAL SERVICES AGREEMENT
SECTION 2.7, ALLOWABLE LEGAL RATES**

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**UNITED FOOD AND COMMERCIAL WORKERS
AND FOOD EMPLOYERS LABOR RELATIONS ASSOCIATION
LEGAL BENEFITS FUND**

**ALLOWABLE LEGAL RATE
INCREASE REQUEST**

July 25, 2022

Current Allowable Legal Rate: \$95.00 of hourly compensation

Previously Approved Increase: In 2016, the fund approved an increase in the Cap rate in accordance with an increase in the participant monthly rate for legal services. Prior to that, the rate had not been changed since original contract, signed on February 16, 1981.

Current Increase Request:

	Increase Requested For 2022 Plan Year	Allowable Legal Rate For 2022 Plan Year
July 25, 2022 :	\$15.00	\$110.00

	Increase Requested For 2023 Plan Year	Allowable Legal Rate For 2023 Plan Year
	\$1.00	\$111.00

	Increase Requested For 2024 Plan Year	Allowable Legal Rate For 2024 Plan Year
	\$1.00	\$112.00

	Increase Requested For 2025 Plan Year	Allowable Legal Rate For 2025 Plan Year
	\$1.00	\$113.00

JUSTIFICATION FOR INCREASE

Akman & Associates, LLC, the Fund Panel Attorneys, are requesting an increase to the Allowable Legal Rate outlined in Section 2.7 of the Legal Services Agreement. This section of the agreement has been increased only once since its first version on February 16, 1981.

The Allowable Legal Rate, defined in Section 2.7 (exact Section can be found on the final page of this report) of the Legal Services Agreement, outlines the average hourly compensation for an attorney under the Legal Services Agreement. Specifically, the Allowable Legal Rate is determined by the gross compensation to the attorney (including contingency fees), divided by actual attorney hours expended, plus one half of hours expended by paralegals and other professionals. The actual Allowable Legal Rate figure is \$95.00 and it has not been increased since 2018. The purpose of this rate is to guard against the provider receiving an hourly rate that would surpass the industry standard. Now, in 2022, most attorneys receive well over this amount on an hourly basis, with most surpassing \$400.00 per hour for legal services.

Akman & Associates, LLC is requesting an increase in the \$95.00 legal rate to \$110.00, starting this year, and increased at \$1.00 per year through 2025. It is important to note that any increase to the Allowable Legal Rate will NOT cost the Fund any further financial commitment and will NOT increase compensation to Akman & Associates, LLC. This increase request is strictly to make sure we are in compliance with the Legal Services Agreement.

Over the years since I have been President of Akman & Associates, LLC, we have done everything in our power to keep our rate of legal services in accordance with the agreement. This past year, however, it was especially difficult, and we have exceeded that rate on a few occasions. The hourly rate for the 2022 plan year is \$95.00. As referenced above, the Allowable Legal Rate figure is tied in directly to gross compensation received and hours of legal services performed. Over the past 41 years since this figure was implemented, the compensation rate per member has been increased at a steady, agreed upon amount through amendments to the Legal Services Agreement. That growth has led directly to an increase in gross compensation, which has in turn raised the rate of legal services, stipulated in Section 2.7.

If granted, this proposal will increase the Allowable Legal Rate by \$15.00 in 2022, and by a total of \$18.00 by 2026. At that time, the rate will be \$113; 41 years after it was set at \$85.00. Increasing the rate will allow Akman & Associates, LLC to conform to the terms of the Legal Services Agreement, which must be updated to reflect the changes in gross compensation that have taken place over the last 41 years.

As the Trustees are aware, gross compensation has been increased throughout this contract to account for increases in inflation, employee wages, health insurance premiums, electronic enhancements, malpractice insurance, legal research, retainers for out of state

attorneys, decreases in participant membership, mileage expenses, and the many changes in the legal profession over the duration of this agreement. Those increases in compensation have allowed Akman & Associates, LLC to continue to provide the members of the UFCW with the absolute best legal services available and to continue to satisfy the overwhelming majority of the participants who walk through our doors every day.

Finally, this section of the Legal Services Agreement also states that should the provider exceed the Allowable Legal Rate over a period of 6 months or more, any surplus should be credited to the Fund, unless the Trustees determine that the excess is justified. Section 2.7 goes on state that an adjustment to this rate is expected and will be necessary over the future of the contract. Although Akman & Associates, LLC has not exceeded this rate over any 6 month period during the life of the contract, we feel that this increase is necessary to avoid any situation where that may arise in the future.

It is our goal to make sure that Akman & Associates, LLC is acting in accordance with the Legal Services Agreement, and this proposal to increase the Allowable Legal Rate assures that.

Thank you very much for your time and consideration on this matter and please do not hesitate to reach out to me with any questions or concerns.

**UNITED FOOD AND COMMERCIAL WORKERS
AND FOOD EMPLOYERS LABOR RELATIONS ASSOCIATION
HEALTH AND WELFARE FUND
AND
AKMAN & ASSOCIATES, LLC**

LEGAL SERVICES AGREEMENT

**Article II
OBLIGATIONS OF THE PROVIDER**

Section 2.7. Allowable Legal Rates. If the average hourly compensation for attorneys' time, as described below, exceeds the maximum allowable rate over a period of six (6) or more months, the excess amount will be deemed surplus and will be credited to the Welfare Fund, unless the Trustees determine, in their sole discretion, that the excess is justified. Within a reasonable period following such credit, the Provider and Trustees will amend the legal service and/or payment provisions of this Agreement either by increasing Legal Services or by reducing the payments due under Section 3.1, or by such combination of these devices which the Trustees choose. As of the effective date of this Agreement, the maximum allowable rate of attorney time is \$93.00. Effective January 1, 2017, the maximum allowable rate of attorney time is \$94.00. Effective January 1, 2018, the maximum allowable rate of attorney time is \$95.00. The average hourly compensation for a period is the gross compensation hereunder, including contingency fees and hours related to contingency cases, divided by actual attorney hours expended on Legal Services plus one half hours spent by paralegals and other professionals. The Provider will make the information necessary to make the above determinations available in an expedited manner at the end of each calendar quarter so that any necessary adjustments to the payments under Section 3.1 may be made promptly.