



## **Attorney Application for Financial Support**

The TIME'S UP Legal Defense Fund, which is housed at and administered by the National Women's Law Center (NWLC) Fund, LLC, a subsidiary of the National Women's Law Center, provides financial support to help defray legal costs and fees in eligible matters challenging work-related sexual harassment and/or retaliation.

Thank you for your willingness to represent individuals who have faced work-related sexual harassment and/or retaliation and for taking the time to contact us about your matter.

### **Note:**

- Only attorneys may apply for TIME'S UP Legal Defense Fund financial support for legal representation.
- **Not all applications will be granted financial support.**
- Applications are reviewed on a rolling basis.
- If your matter involves a time-sensitive legal deadline indicate that in your email submitting the application.
- Email completed applications to [TimesUpFundingApp@nwlc.org](mailto:TimesUpFundingApp@nwlc.org).

If you are an individual who has faced workplace sexual harassment or related retaliation and is seeking legal help, do not complete the below application. Instead, fill out our online intake form at [www.nwlc.org/legalhelp](http://www.nwlc.org/legalhelp).

## **Eligibility for Financial Support from the TIME'S UP Legal Defense Fund:**

The TIME'S UP Legal Defense Fund is intended to increase the availability of legal representation to individuals experiencing sexual harassment and related retaliation in the workplace or in their career by helping to defray the costs of such representation in select cases where representation may not be otherwise available.

Attorneys may apply for financial support for legal representation in matters in which they have agreed to represent a potential client contingent on receipt of funding as well as in matters in which they have entered into ongoing representation of a client, as set out further below. Please read all the information below to determine if your matter is eligible for funding before completing the application.



### *Types of Matters*

To be eligible for funding, the matter must fall into one of the following categories. Workplace-related sexual harassment cases outside the scope of sexual harassment and retaliation protections provided by Title VII or its state law analogs are eligible for support if an alternative legal theory is available. The term “sexual harassment” is used below and throughout to include sexual assault and other forms of sexual abuse.

- (1) the matter challenges sexual harassment (e.g., quid pro quo harassment or hostile environment harassment, including harassment that evinces hostility against an individual based on his or her sex) related to the workplace or an individual’s career;
- (2) the matter challenges retaliation in the workplace or an individual’s career as a result of raising issues of workplace sexual harassment, formally or informally, or otherwise opposing sexual harassment or participating in sexual harassment complaints or investigations as a complainant or witness; or
- (3) the matter involves defending against threats (e.g., threats to sue for defamation, cease and desist letters, or other forms of legal threats) for speaking out about past instances of sexual harassment related to the workplace or an individual’s career.

### *Financial Need*

The TIME’S UP Legal Defense Fund is intended to provide financial support to matters in which it would be challenging to obtain adequate legal representation in the absence of such support or where the cost of such representation will impose significant hardship on the individual or his or her attorney. Thus, to be eligible for financial support in a new matter or to support a new phase of an ongoing affirmative representation (as further described below), the matter must meet one or both of the following guidelines:

- The individual is seeking legal defense from retaliatory legal claims or threats of legal claims, there is not a realistic prospect of recovery of attorney’s fees and costs from the adversary for this defense, and/or the individual does not have the financial resources to pay the necessary attorney fees and costs.

AND/OR

- The individual is seeking to bring affirmative claims challenging sexual harassment or related retaliation and the reasonable valuation of the case, taking into account lost wages and estimates of compensatory damages, including any applicable caps on these damages, is low and thus either unlikely to attract representation on a contingency basis, or representation of the individual will impose significant hardship



on the individual's attorney and the individual does not have the financial resources to pay the necessary attorney fees and costs.

#### *Financial Need: Ongoing Matters*

Financial support from the TIME'S UP Legal Defense Fund may be sought for fees /costs accrued in matters that are ongoing (and not entering a new phase of representation (e.g., investigation, negotiation and administrative charge, litigation, or appeal)) when such representation is imposing a significant financial hardship either to an attorney doing the work pro bono or for a reduced fee or to the client paying for legal representation. However, no such fees/costs incurred prior to one month before the application is received will be funded. In limited and exceptional cases, the TIME'S UP Legal Defense Fund may award funds for attorney fees in ongoing matters. In order to justify such an award, however, the attorney applicant will need to demonstrate significant and unusual financial hardship to the attorney or client.

#### *Adequacy of Legal Representation*

To be eligible for funding, attorneys must demonstrate that they will provide adequate representation of the individual(s) in the matter. To that end, the application must include a detailed description of the attorney's experience, credentials, and plans for handling representation in the matter, including plans for working with co-counsel and/or support staff.

#### *Legal Network for Gender Equity Participation*

To be eligible for funding, attorneys must be members of the Legal Network for Gender Equity. Attorneys may join the Network at the time they apply for funding. To learn more about joining the Legal Network for Gender Equity, go to [www.nwlc.org/join-the-legal-network/](http://www.nwlc.org/join-the-legal-network/).

#### *Funding Priorities*

In order to be eligible for funding, matters must meet at least one of the priority criteria. However, no matter is entitled to funding solely because it meets one or more priority criteria. The TIME'S UP Legal Defense Fund will regularly review these priority criteria and may revise or alter them based on new data, emerging trends, or shifts in TIME'S UP Legal Defense Fund strategy.

The following priority criteria will be considered:

- The matter involves sexual harassment or related retaliation against an individual employed in low-wage work, such as restaurant work, agricultural work, or domestic work. These matters are a priority because of the vulnerability to harassment in such occupations, the obstacles individuals in low-wage jobs face

in finding legal representation, and the harm harassment in such occupations disproportionately imposes on women of color and immigrant women.

- The matter involves sexual harassment against a woman employed in a male-dominated occupation, such as construction, mining, or policing. These matters are a priority because such harassment perpetuates gender segregation and gender-based stereotypes that exclude women from occupations that are typically higher paid.
- The matter involves sexual harassment and/or retaliation by an especially high-profile, prominent, or powerful individual. These matters are a priority because of the large power disparities that leave individuals experiencing such harassment or retaliation uniquely vulnerable.
- The matter involves sexual harassment or related retaliation targeting multiple individuals within one workplace or company or otherwise indicates a systemic or company-wide pattern or practice of sexual harassment and/or related retaliation. These matters are a priority because of their potential to make wide-scale change and achieve justice for many affected individuals.
- The matter has the potential to establish important precedent or advance novel legal issues. These matters are a priority because of their potential as vehicles for broad legal reform.
- The matter involves extreme retaliation against individuals alleging sexual harassment, such as a lawsuit or media campaign. These matters are a priority because these forms of retaliation not only harm the individuals challenging harassment, but also perpetuate a larger culture of silence.

In addition, the TIME'S UP Legal Defense Fund is particularly interested in matters that fall within one or more of the above criteria and that involve harassment that is based both on an individual's sex and on an intersecting identity, such as race, disability, immigration status, or LGBTQ status. These matters are of particular interest because individuals experiencing intersecting forms of discrimination are among those most vulnerable to workplace harassment.

### **Applications for Funding and Available Funding Models:**

#### *Application Requirements*

To apply for funds, attorneys will complete the application found below, providing the following:

- A one paragraph summary of the case and claims;
- A description of the alleged workplace sexual harassment and/or related retaliation and the specific legal claims (maximum 2 pages);



- This description must show the matter meets the eligibility and priority criteria of the TIME'S UP Legal Defense Fund;
- A budget of funds sought (see example);
- A description of financial need and the reasons these funds are necessary for the represented individual and for the attorney, including
  - why funding is necessary given this client and this attorney;
  - whether there exists a potential for recovery of attorney fees and, if so, why this is insufficient to make representation of the individual financially viable for the attorney;
  - whether the attorney and the client may enter into a contingency fee arrangement and, if so, why this is insufficient to make representation of the individual financially viable for the attorney (e.g., the reasonable valuation of the case, taking into account lost wages and estimates of compensatory damages, including any applicable caps on these damages is low, or representation of the individual will otherwise impose significant financial hardship on the attorney or the individual); and
  - (for applications for financial support in ongoing matters) why the ongoing representation is imposing significant financial hardship to the attorney doing the work pro bono or for a reduced fee or to the client paying for legal representation;
  - the amount of money the client can contribute (if any);
- An explanation of why the attorney is qualified to handle the case (e.g., NELA membership or other relevant attorney association membership, percentage of practice made up of plaintiff-side employment discrimination representation, planned pairing with co-counsel, etc.).

Incomplete applications will not be considered for funding.

#### *Available Funding Models*

Applicants may seek support for expenses/costs and/or attorney's fees.

Clients with some ability to pay will be expected to share some portion of the costs of representation.

As a condition of receipt of funds from TIME'S UP Legal Defense Fund, attorneys must agree that they will not take a contingency fee of more than one-third of any total recovery in a matter.



Because TIME'S UP Legal Defense Fund aims to support cases that could not be brought otherwise, TIME'S UP Legal Defense Fund funding cannot be used to repay a client for funds already paid.

#### Expenses/costs

Applicants may seek funds for third-party costs such as investigators, experts, travel, depositions, court costs, etc. The application should describe the costs for which reimbursement will be sought. In appropriate circumstances based on a need described in the application, the TIME'S UP Legal Defense Fund can pay such costs in advance (rather than through a subsequent reimbursement).

#### Attorney fee support—affirmative claims

Award of fee support for affirmative sexual harassment or retaliation claims will be provided by phase of case (e.g., investigation, negotiation and administrative charge, litigation, or appeal) with separate applications required to seek support at each phase. A decision to fund a case in one phase does not guarantee that a case will be funded in future phases.

Awards will be calculated based on a discounted rate of \$300 per hour (or actual billing rate if less).

Awards will be made up to the following caps per phase:

- Up to \$3,000 for investigation of claims;
- Up to \$10,000 for demand letter, negotiation, other pre-filing work, EEOC (or state equivalent) charge as applicable;
- Up to \$100,000 for litigation at trial level, including discovery, motions practice, trial, etc.;
- Up to \$50,000 for appeal(s).

The TIME'S UP Legal Defense Fund may provide funding in excess of the capped amounts for attorney fee support in exceptional circumstances.

#### Attorney fee support—defensive work, including defense of counterclaims

Given the differences in control exercised over the decision to proceed to litigation in defensive work as compared to plaintiff-side work, awards of fee support for representation defending individuals who have experienced sexual harassment will not be made by phase of case. Because recovery of attorney fees typically is not available in defensive work, the TIME'S UP Legal Defense Fund will calculate awards to support defensive work using a higher cap and hourly attorney rate than applies to its awards to support affirmative work:



- Attorney fees will be calculated based on a discounted hourly rate of \$450 per hour (or actual billing rate if less), unless the attorney demonstrates the necessity of a higher discounted rate in the application for funds;
- Awards of up to \$250,000 will be available for support of defensive work.

The TIME'S UP Legal Defense Fund may provide funding in excess of the capped amounts for attorney fee support in exceptional circumstances. Overall, the TIME'S UP Legal Defense Fund will aim to allocate no more than 30 percent of its total awarded funds to matters involving exclusively defensive work.

#### *Review of Application*

The determination as to which cases will receive TIME'S UP Legal Defense Fund financial support and the amount of support each matter will receive will be made by the National Women's Law Center and/or its affiliate, the National Women's Law Center Fund LLC, as the entity responsible for administration of the TIME'S UP Legal Defense Fund. These determinations will be made free from the influence of donors. The TIME'S UP Legal Defense Fund, the National Women's Law Center, and the National Women's Law Center Fund LLC otherwise exercise no control whatsoever over the matter.

Applicants for funding may receive follow-up inquiries from the TIME'S UP Legal Defense Fund as their applications are reviewed.

#### **Repayment of TIME'S UP Fund Financial Support:**

Attorneys receiving funds must commit to repaying the TIME'S UP Legal Defense Fund if there is a recovery in the matter, in order to allow the TIME'S UP Legal Defense Fund to continue to support this important work.

If an award of fees and/or costs is made by the court in a case that has received financial support, the TIME'S UP Legal Defense Fund will be paid back the full amount of fees/costs provided the award is sufficient to cover this amount unless the relevant fees/costs were specifically disallowed in the award.

If instead the matter is resolved with a lump sum from which the attorney takes a contingency fee, the TIME'S UP Legal Defense Fund will be reimbursed in full for the funding it provided for fees/costs out of the attorney's share of the recovery, but any such repayment to the TIME'S UP Legal Defense Fund will be capped at 50 percent of the attorney's portion of the recovery.





### Attorney Information

*Attorney Name:*

*Email:*

*Firm Name:*

*Firm Website:*

*Address:*

*Office Phone Number:*

*Direct Phone Number:*

*Are you a member of the Legal Network for Gender Equity?*

☐ YES ☐ NO

*Are you willing to become a member of the Legal Network for Gender Equity?*

☐ YES ☐ NO

*How did you learn about the TIME'S UP Legal Defense Fund?*

#### **I. Client/Individual Seeking Representation**

*Individual's Name:*

*Were you connected to this individual through the Legal Network for Gender Equity?*

☐ YES ☐ NO ☐ UNKNOWN

*When were you initially contacted by this individual about this matter?*

*Are you currently representing this individual?*

☐ Yes. If yes, what has the scope of your representation been?

☐ No





## **II. Case Name and Names of Parties**

*Please list the name of the case or representation for which you are applying and the names of the relevant parties. If a case has not yet been filed, please use a placeholder name (projected name of case, project name, etc.).*

## **III. Case Type**

*Select one:*

- ☐ Plaintiff-side representation/litigation on behalf of an individual who has experienced sexual harassment associated with work and/or related retaliation (including but not limited to Title VII sexual harassment and retaliation claims)
- ☐ Defensive representation/litigation on behalf of individual who has experienced sexual harassment associated with work and is facing legal retaliation as a result of speaking out about sexual harassment associated with work
- ☐ Representation/litigation that includes both affirmative claims and defensive work on behalf of an individual who has experienced sexual harassment associated with work

## **IV. Co-Counsel/Other Attorneys**

*If you are working with co-counsel/other attorneys on this matter, please provide their contact information below. Otherwise, write "n/a."*

## **V. One Paragraph Summary of the Case and Legal Claims**



## **VI. Financial Need**

*Why is TIME'S UP Legal Defense Fund funding necessary in this matter? Please include information addressing:*

- *If the individual is unable to pay the necessary attorney fees;*
- *If the attorney is unable to undertake the representation absent the funding;*
- *Whether there exists a potential for recovery of attorney fees (e.g., the matter includes claims that allow for fee-shifting, such as Title VII or anti-SLAPP provisions) and, if so, why this is insufficient to make the representation financially viable for the attorney;*
- *If the matter is ongoing, why the representation is now imposing a significant financial hardship to the attorney doing the work pro bono or for a reduced fee or to the client paying for legal representation;*
- *Whether the attorney and the client may enter into a contingency fee arrangement and, if so, why this is insufficient to make the representation financially viable for the attorney (e.g., the reasonable valuation of the case, taking into account lost wages and estimates of compensatory damages, including any applicable caps on these damages is low); and*
- *What amount of money, if any, the client can contribute.*

## **VII. The Matter**

*Please describe the facts and legal theory of the matter including:*

- *A specific description of how the matter involves workplace sexual harassment and/or related retaliation;*
- *The legal theory of the case;*
- *Where you are in the process;*
- *If the matter is being undertaken as part of a broader legal or organizing strategy;*
- *Which priority criteria (listed below) apply to your case;*

*This description should be no longer than two pages and not include privileged information.*

*Indicate which, if any, of the following priority criteria apply to your case and, for each applicable criterion, provide a brief description of the relevant conduct and legal claim(s):*

☐ The matter involves harassment against an individual employed in low-wage work.

*Brief description:*

☐ The matter involves harassment against a woman employed in a male-dominated occupation.

*Brief description:*

☐ The matter involves harassment/threats of retaliation by an especially high-profile/prominent/powerful individual.

*Brief description:*

☐ The matter involves harassment targeting multiple individuals within one workplace or company or other indications of a systemic or company-wide concern.

*Brief description:*



☐ The matter has the potential to establish important precedent or advance a promising novel legal theory.

*Brief description:*

☐ The matter involves extreme retaliation against those alleging harassment, such as a lawsuit or media campaign.

*Brief description:*

*The TIME'S UP Legal Defense Fund is particularly interested in matters that fall within one or more of the above criteria and that involve harassment that is based on both an individual's sex and on an intersecting identity, such as race, disability, immigration status, or LGBTQ status. If such harassment based on intersecting identities is at issue in the matter, please provide a brief description of the relevant conduct and legal claim(s).*

## VIII. Financial Resources Sought

### A. Funding Type Sought (select all applicable)

- ☐ Expenses/costs
- ☐ Attorney fee support (affirmative claims)
- ☐ Attorney fee support (defensive work)

### B. Expenses/Costs

*Provide an itemized estimated budget for the costs/expenses for which funding is sought, by type. These categories are for example only; yours may be different:*

Activity	Estimated Cost
Filing Fees	
Depositions (Transcripts and Court Reporter)	
Expert Witnesses	
Mediation	
Private Investigator	
Travel	
Interpreters	

### C. Attorney Fee Support--Affirmative Claims

*Awards of fee support for affirmative sexual harassment representation will be by phase of case (e.g., investigation, negotiation and administrative charge, litigation, and appeal), with updated applications required to seek support at each phase. A decision to fund a case in one phase does not guarantee that a case will be funded in future phases. Please indicate the phase for which you are requesting funds for attorneys' fees and the amount sought.*

- ☐ Initial investigation of claims  
Amount sought (up to \$3000):



- ☐ Pre-filing work, including demand letter, negotiation, EEOC (or state equivalent) charge  
Amount sought (up to \$10,000):
- ☐ Litigation at trial level, including discovery, motions practice, trial, etc.  
Amount sought (up to \$100,000):
- ☐ Appellate work  
Amount sought (up to \$50,000):

*Attorney fees will be calculated based on a discounted hourly rate of \$300 per hour (or actual billing rate if less) unless the attorney demonstrates the necessity of a higher discounted rate in the application for funds.*

*For **litigation and appellate work**, provide an estimated number of hours for general categories of work relevant to your matter (specifying allocations of hours per attorney, if necessary). These categories are for example only; yours may be different:*

Activity	Number of Hours
Pre-Complaint Investigation	
Written Discovery	
Depositions	
Settlement/Mediation	
Motions	
Summary Judgment	
Pre-Trial Preparation	
Trial	

*If you believe a \$300 per hour fee is inadequate to support your work on this matter, identify the fee(s) you seek and explain why this rate is necessary.*



***D. Attorney Fee Support--Defensive Work, Including Defense of Counterclaims***

*Given the differences in control exercised over the decision to proceed to litigation in defensive work as compared to plaintiff-side work, the TIME'S UP Legal Defense Fund will award attorney fees for support of defensive work as a lump sum, and not by phase of case. Because recovery of attorney fees typically is not available in defensive work, TIME'S UP Legal Defense Fund support for attorney fees for defensive work will be calculated based on a higher hourly rate and higher cap on the total award than applies to support for affirmative work.*

- Attorney fees will be calculated based on a discounted hourly rate of \$450 per hour (or actual billing rate if less), unless the attorney demonstrates the necessity of a higher discounted rate in the application for funds;
- Awards of up to \$250,000 will be available for support of defensive work.

*Please provide an estimated number of hours for general categories of work relevant to your matter (specifying allocations of hours per attorney, if necessary). These categories are for example only; yours may be different:*

Activity	Number of Hours
Anti-SLAPP Motion	
Written Discovery	
Depositions	
Settlement/Mediation	
Motions	
Summary Judgment	
Pre-Trial Preparation	
Trial	

*If you believe a \$450 per hour fee is inadequate to support your work on this matter, identify the fee(s) you seek and explain why this rate is necessary.*





## **IX. Additional Claims and Defendants**

If the case involves a claim(s) or cause(s) of action(s) other than the ones for which you are seeking funding, list those claims and causes of action and the defendants involved in those claims.

## **X. Relevant Qualifications and Expertise**

*Describe in one page or less the legal background and relevant qualifications for the lead counsel and any other attorneys working on the matter. You may attach a resume or resumes, but also include a narrative response detailing your relevant expertise. Include information about past similar claims or cases, relevant training or coursework, affiliations with relevant attorney organizations and any other indications of your qualifications to take on this matter.*

*If you are seeking support for affirmative claims, please include in this narrative:*

- *The percentage of the practice of each of the attorneys on the case dedicated to employment discrimination matters*
- *The percentage of the practice of each of the attorneys on the case dedicated to plaintiff-side employment discrimination matters*
- *Whether you are a member of the National Employment Lawyers Association or any similar entity*

## **XI. References**

*Provide at least three references of individuals who are familiar with your legal work. The list should include one former client, one current or former co-counsel, and one current or former opposing counsel (not opposing counsel in the matter for which you are requesting funding in this application). Provide their names, email addresses and contact information below.*



*Former Client:*

Name: \_\_\_\_\_

Email Address: \_\_\_\_\_

Telephone No: \_\_\_\_\_

*Current or Former Co-Counsel:*

Name: \_\_\_\_\_

Email Address: \_\_\_\_\_

Telephone No: \_\_\_\_\_

*Current or Former Opposing Counsel:*

Name: \_\_\_\_\_

Email Address: \_\_\_\_\_

Telephone No: \_\_\_\_\_

If you have been disciplined by a legal bar in your career, provide the date, charges, and disposition.