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September 26, 2016

Mr. Gregory O. Block
Clerk of the Court
U.S. Court of Appeals for Veterans Claims
625 Indiana Ave., N. W. - Suite 900
Washington, D.C. 20004-2950

RE: Cornell, Catherine
No. 15-3191
Citation to Supplemental Authority by the Appellant

Dear Clerk:

Pursuant to U.S. Vet.App. R. 30(b), this is to bring to the Court's attention supplemental authority that is relevant to the above-referenced case now pending before the Court. The supplemental authority is as follows:

38 U.S.C. § 7105A(b)

38 C.F.R. § 19.9(a)

These authorities pertain to the VA's September 20, 2016 *Solze* letter which informed the Court that when the VA's regional office made its decision with respect to Ms. Cornell's fee eligibility it mailed a copy of that decision to Mr. Moberly and Ms. Cornell but the VA failed to mail notice of the VA's fee decision to Mr. Moberly's representative, Disabled American Veterans.

The VA's *Solze* letter acknowledged that it was obligated to but did not provide these documents to both the Mr. Moberly and his representative. 38 U.S.C. § 5104(a); 38 C.F.R. §§ 3.103(b) and (f). The failure of the VA to provide the required notice to Mr. Moberly's representative tolled the time for filing Mr. Moberly's appeal.

In accordance with the provisions of 38 U.S.C. § 7105A(b): "Upon the filing of a notice of disagreement, all parties in interest will be furnished with a statement of the case in the same manner as is prescribed in section 7105. The party in interest who filed a notice of disagreement will be allowed thirty days from the date of mailing of such statement of the case in which to file a formal appeal."

The record confirms that on July 31, 2012, Disabled American Veterans did in fact file a notice of disagreement on behalf of Mr. Moberly with the VA's May 8, 2012 decision. RBA 231. This filing although made more than 60 days after the VA's May 8, 2012 decision, confirms actual notice by Mr. Moberly's representative as well as the VA's receipt of a timely notice of disagreement.

The record also confirms that no statement of case was prepared by the VA in response to Mr. Moberly's notice of disagreement with the VA's fee decision. As a result, the VA also failed to be furnished with a statement of the case to Ms. Cornell in the same manner as is prescribed in 38 U.S.C. § 7105.

This omission by the VA implicated the provisions of 38 C.F.R. § 19.9(a) which required the VA to remand Ms. Cornell's appeal for the correction of the VA acknowledge procedural defect. Specifically, the VA's failure to submit a statement of the case to both Mr. Moberly and Ms. Cornell as required by 38 U.S.C. § 7105A(b).

Thank you for your attention to this matter.

Sincerely,

/s/Kenneth M. Carpenter

Kenneth M. Carpenter

Counsel for Appellant,

Catherine Cornell

Electronically filed September 26, 2016

KMC:tc

cc: Pamela Nash, VAGC