



Department of Veterans Affairs
Office of General Counsel
Washington DC 20420

In reply refer to: **027D/E**

- Ms. Tiffany M. Wagner
Clerk of the Court
U.S. Court of Appeals for Veterans Claims
625 Indiana Avenue, NW
Washington, DC 20004

Re: **ALEXANDRA M. JACKSON**
Vet. App. No. 22-3528

February 26, 2024

Dear Ms. Wagner,

Pursuant to U.S. Vet. App. R. 30(b), and in response to Appellant's Supplemental Citation of Authority filed February 23, 2024, the Secretary hereby advises the Court of additional, pertinent, and significant authority that undersigned counsel has become aware of since the Secretary filed his brief on April 7, 2023.

Specifically, the Court's decision *Gumpenberger v. McDonough*, 35 Vet.App. 195 (2002). In *Gumpenberger*, the Court discussed the meaning of the phrase "with respect to the case" and found that "a schedular rating for TBI and TDIU are two separate cases . . . because they are separate claims on different procedural tracks." *Gumpenberger*, 35 Vet.App. at 209.

This is relevant to the Secretary's arguments in his brief that the Veteran's initial increased rating claim is not part of the same "case" as the initial claim for service connection. See Secretary's Brief (Sec. Br.) at 15-17. It is also relevant, *inter alia*, to Appellant's Supplemental Citation of Authority wherein Appellant advised the Court of *Held v. McDonough*, --- Vet.App. ----, Docket No. 21-8048 (Nov. 14, 2023), as relevant to the issue of what constitutes an initial decision with respect to the case. See Appellant's Supplemental Citation of Authority at 2.

Sincerely,

/s/ Nathan Paul Kirschner
NATHAN PAUL KIRSCHNER
Senior Appellate Counsel
Counsel for the Secretary