

UNITED STATES COURT OF APPEALS FOR VETERANS CLAIMS

THOMAS LARSON,

Appellant

v.

ROBERT A. McDONALD,
Secretary of Veterans Affairs,

Appellee

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VA App. No. 11-864

***APPELLANT'S SUPPLEMENTAL
APPLICATION FOR
ATTORNEY'S FEES***

On June 12, 2015, this Court granted Appellant's application for fees under EAJA in full. Pursuant to Rule 39, CAVC Rules of Procedure, and 28 U.S.C. § 2412, Appellant now seeks an award of supplemental fees in the amount of \$2447.73.

"It is unquestioned that EAJA fees are available for litigation over the EAJA application itself and that an award of fees and expenses for that purpose would generally follow from success in the basic EAJA application." *Cook v. Brown*, 6 Vet. App. 226, 240 (1994), *aff'd on other grounds*, 68 F.3d 447 (Fed. Cir. 1995); *accord I.N.S v. Jean*, 496 U.S. 154, 110 S.Ct. 2316, 110 L.Ed.2d 134 (1990); *Fritz v. West*, 264 F.3d 1372 (Fed.Cir. 2001); *Swiney v. Gober*, 14 Vet. App. 65, 75 (2000); *Sandoval v. Brown*, 9 Vet. App. 177, 181-182 (1996), (92-168); *Camphor v. Brown*, 8 Vet. App. 272, 277 (1995); *Curtis v. Brown*, 8 Vet. App. 104, 108 (1995). "The sole consideration in determining a fees-for-fees supplemental application is one of reasonableness." *McNeely v. West*, 12 Vet. App. 162, 164 (1999); *see Swiney v. Gober*, 14 Vet. App. at 75; *Cook v. Brown*, 6 Vet. App. at 240.

Attached is the affidavit of counsel describing the claim for \$2447.73 in supplemental fees. It is based on 13.3 hours of work, at a rate of \$184.04 (\$125/hour

plus a COLA from March 1996, using the CPI-U for Cincinnati and the first half of 2013, the date halfway between filing the CAVC appeal and the November 2014 mandate as the midpoint). See, www.bls.gov. An award of supplemental fees in the amount of \$2447.73 is therefore proper.

Respectfully submitted,

/s/Barbara J. Cook

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ATTORNEY FOR APPELLANT

Time Entries For: Larson, Thomas

Wed Jun 17, 15 - Time Entry - 0.30 hours	Finish and file supp EAJA
Wed Jun 17, 15 - Time Entry - 0.20 hours	Finish letter to client about EAJA decision and supp motion
Tue, Jun 16, 15 - Time Entry - 0.20 hours	Start to draft supp EAJA petition
Sat Jun 13, 15 - Time Entry - 0.10 hours	Start letter to client about decision
Fri Jun 12, 15 - Time Entry - 0.20 hours	Receive and review mem. dec.
Thu Apr 16, 15 - Time Entry - 0.20 hours	Letter to client with cc of reply in EAJA
Wed Apr 15, 15 - Time Entry - 0.40 hours	Final edits to reply and file
Wed Apr 15, 15 - Time Entry - 0.80 hours	Complete EAJA reply
Tue Apr 14, 15 - Time Entry - 1.10 hours	Additional edits to reply
Mon Apr 13, 15 - Time Entry - 1.60 hours	Edit per Michael Mooney suggestions
Mon Apr 13, 15 - Time Entry - 0.90 hours	Review, discuss with Landon Overby, add <i>Halpern</i>
Sun Apr 12, 15 - Time Entry - 0.70 hours	Draft substantial justification argument
Sun Apr 12, 15 - Time Entry - 1.50 hours	Continue to draft prevailing party argument
Sat Apr 11, 15 - Time Entry - 0.50 hours	Review Secretary's argument on substantial justification, discuss case with attorney Michael Mooney
Sat Apr 11, 15 - Time Entry - 1.00 hours	Read and analyze cases on prevailing party cited by Secretary
Wed Mar 11, 15 - Time Entry - 1.50 hours	Draft first argument on prevailing party
Wed Mar 11, 15 - Time Entry - 0.40 hours	Start research on response, review other

	attorneys' pleadings and recent CAVC decisions
Tue Mar 10, 15 - Time Entry - 0.80 hours	Start to draft reply: pull together other cases, read GC response in depth
Mon Mar 9, 15 - Time Entry - 0.40 hours	Read GC brief, take notes on argument
Thu Feb 12, 15 - Time Entry - 0.30 hours	Review emails about efforts to settle the case
Thu Feb 12, 15 - Time Entry - 0.10 hours	Skim GC response
Total	13.30 hours

I, Barbara Cook, under penalty of perjury, affirm that the above is a true and accurate accounting of the time I spent on the case of *Larson v. McDonald*, CAVC # 11-864, after filing the initial EAJA petition. In the exercise of billing judgment, I omitted time spent on administrative tasks, and time that appeared duplicative.

/s/Barbara J. Cook