

MOTION GRANTED



Michael P. Allen
Judge

February 16, 2018

IN THE UNITED STATES COURT OF APPEALS FOR VETERANS CLAIMS

TERRY J. JOHNSON,

Appellant,

v.

DAVID J. SHULKIN, M.D.,
Secretary of Veterans Affairs,

Appellee.

Vet. App. No. 16-2891

JOINT MOTION FOR STAY OF EAJA PROCEEDINGS

Pursuant to U.S. Vet. App. R. 5, Appellant, Terry J. Johnson, and Appellee, David J. Shulkin, M.D., Secretary of Veterans Affairs, through their respective undersigned counsel, respectfully move the Court for a stay of proceedings pending the resolution of the Court's decision regarding a fee dispute in *Speigner v. Shulkin*, No. 16-2811, currently pending before the Court. The fee dispute in *Speigner* is similar to dispute regarding Appellant's counsel's billing rate in this case.

In the present case, the parties have reached an impasse over the same issue presented in *Speigner*, the appropriate billing rate used by Appellant's counsel. Although the parties recognize the outcome of *Speigner*, not presently called to panel, may not ultimately carry binding precedential effect, the parties agree the method of resolution of that case will generally provide useful instruction as to the appropriate billing rate used by Appellant's counsel and guide the outcome of this appeal. The fee

dispute in *Speigner* will likely not be resolved until after the Secretary's response to Appellant's EAJA application is due in the present case. Accordingly, the parties believe a stay of proceedings is in the interest of judicial efficiency.

WHEREFORE, the parties respectfully move the Court to stay proceedings pending resolution of *Speigner* or until further order of the Court.

Respectfully submitted,

FOR APPELLANT:

February 15, 2018

/s/ Patrick Berkshire

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