



Department of Veterans Affairs
Office of General Counsel
Washington DC 20420

In reply refer to: **027J**

• June 5, 2018

Mr. Gregory O. Block
Clerk of the Court
U.S. Court of Appeals for Veterans Claims
625 Indiana Avenue, NW
Washington, DC 20004

Re: **Lenard W. Graham v. Peter O'Rourke**
Vet. App. No. 17-1519

Dear Mr. Block,

Pursuant to U.S. Vet. App. R. 30(b), Appellee, Peter O'Rourke, Acting Secretary of Veterans Affairs (Secretary), hereby advises the Court of additional pertinent and significant authority the undersigned counsel has recently become aware of since the Secretary filed his brief and supplemental brief in this appeal.

In a footnote on page 2 of his supplemental brief, the Secretary noted that the United States Court of Appeals for the Federal Circuit (Federal Circuit) had pending before it the case of *Acree v. Wilkie*, No. 2017-1745. On June 4, 2018, the Federal Circuit rendered a decision in that case. *Acree v. O'Rourke*, No. 2017-1749, 2018 U.S. App. LEXIS 14959 (Fed. Cir. June 4, 2018). The decision reviewed the requirements necessary for an effective oral withdrawal of an appeal at a Board hearing and reviewed the standard formulated in *DeLisio v. Shinseki*, 25 Vet.App. 45 (2011) and its applicability to 38 C.F.R. § 20.204.

The Federal Circuit's decision in *Acree* is pertinent and significant authority on the issue in this appeal and the Secretary informs the Court accordingly.

Sincerely,

/s/ Joshua L. Wolinsky
JOSHUA L. WOLINSKY
Appellate Attorney
Counsel for the Secretary