

**IN THE UNITED STATES COURT OF APPEALS
FOR VETERANS CLAIMS**

ROBERT L. MARTIN,)	
)	
Appellant,)	
)	
v.)	Vet. App. No. 17-2773
)	
ROBERT L. WILKIE,)	
Secretary of Veterans Affairs,)	
)	
Appellee.)	

**SECRETARY'S RESPONSE UNDER U.S. VET. APP. R. 39(b)
TO APPELLANT'S APPLICATION FOR
ATTORNEY FEES AND EXPENSES**

Pursuant to U.S. Vet. App. Rule 39(b), Appellee Robert L. Wilkie, Secretary of Veterans Affairs (Secretary), responds to Appellant's application for an award of attorney fees and expenses under the Equal Access to Justice Act (EAJA), 28 U.S.C. § 2412.

Appellant's EAJA application satisfies the jurisdictional requirements of the statute. 28 U.S.C. § 2412(d)(1)(B). Additionally, the Secretary concedes that Appellant has met the three predicate findings for an EAJA award: (1) Appellant is a "prevailing party"; (2) the Secretary's position was not "substantially justified"; and (3) there are no "special circumstances" which would make an award unjust. 28 U.S.C. § 2412(d).

Counsel for the Secretary states that following discussions regarding the application, the parties have agreed that a reduction of \$1,091.66 in the total amount requested is appropriate. Appellant has consented to a reduced amount of attorney fees and expenses to total \$14,348.98.

CONCLUSION

WHEREFORE, Appellee Robert L. Wilkie, respectfully responds to Appellant's application for the award of attorney fees and other expenses, and advises the Court that he does not contest an award in an amount deemed reasonable by the Court, up to **\$14,348.98**.

Respectfully submitted,

JAMES M. BYRNE
General Counsel

MARY ANN FLYNN
Chief Counsel

/s/ Carolyn F. Washington _____
CAROLYN F. WASHINGTON
Deputy Chief Counsel

/s/ Jelani A. Freeman _____
JELANI A. FREEMAN
Appellate Attorney
Office of the General Counsel (027D)
U.S. Department of Veterans Affairs
810 Vermont Avenue, N.W.
Washington, D.C. 20420
(202) 632-6931
Jelani.Freeman@va.gov

Attorneys for the Secretary
of Veterans Affairs