UNITED STATES COURT OF APPEALS
FOR VETERANS CLAIMS

ALBERT P. BLUE,	)	
Appellant,	)	
	)	
v.	)	Vet. App. No. 15-1884
	)	
ROBERT L. WILKIE,	)	
Secretary of Veterans Affairs,	)	
Appellee.	)	

SECRETARY'S RESPONSE TO APPELLANT'S APPLICATION FOR ATTORNEY FEES AND EXPENSES

Pursuant to U.S. Vet. App. R. 39(a)(1), the Secretary does not contest whether Appellant's satisfies the requirements of the Equal Access to Justice Act (EAJA), 28 U.S.C. § 2412(d). Appellant has met the three predicate findings for an award of attorney fees and expenses under the EAJA: whether (1) Appellant is a "prevailing party"; (2) the Secretary's position was not "substantially justified"; and (3) there are any "special circumstances" that would make an award unjust. *See* 28 U.S.C. § 2412(d).

The Secretary, for the sole purpose of avoiding further litigation and related costs, does not contest the reasonableness of Appellant's fees or expenses, *see* 28 U.S.C. § 2412(d)(1)(C), and he is prepared to make payment to Appellant and the representative of record. The Secretary's position here, however, in no way denotes his position as to any issue or matter presented herein that may potentially affect the litigation or settlement of future applications for attorney fees and costs filed with this Court pursuant to 28 U.S.C. § 2412.

CONCLUSION

WHEREFORE, the Secretary advises the Court that he does not contest an EAJA award, up to $12,794.37. This represents an amount agreed to by the parties and differs from what was initially sought.

Respectfully submitted,

JAMES M. BYRNE
General Counsel

MARY ANN FLYNN
Chief Counsel

/s/ Anna Whited
ANNA WHITED
Deputy Chief Counsel

/s/ Stuart J. Anderson
STUART J. ANDERSON
Appellate Attorney
Office of General Counsel (027F)
U.S. Dept. of Veterans Affairs
810 Vermont Avenue NW
Washington, DC 20420
202-632-6948

Attorneys for Appellee,
Secretary of Veterans Affairs