

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

MICHELLE K. MERCURIO,	)	
Appellant,	)	
	)	
v.	)	Vet. App. No. 18-6026
	)	
ROBERT L. WILKIE,	)	
Secretary of Veterans Affairs,	)	
Appellee.	)	

**APPELLEE'S UNOPPOSED MOTION FOR A 45-DAY EXTENSION OF TIME,  
UNTIL OCTOBER 15, 2019, TO FILE THE SECRETARY'S BRIEF**

Pursuant to United States Court of Veterans Appeals Rules 26, 27, and 45, Appellee Robert L. Wilkie, Secretary of Veterans Affairs ("Secretary" or "Appellee"), respectfully moves the Court for an extension of time of 45 days, until October 15, 2019, to prepare and file the Secretary's brief (due to the 45<sup>th</sup> day falling on a federal holiday). Appellant's brief was filed July 1, 2019. Therefore, the Secretary's brief is due August 30, 2019. The Secretary asserts that good cause exists for an extension of time to draft his brief due to the Secretary's counsel's large case load and competing work, the need for supervisory review of the Secretary's brief once drafted, and the required time to finalize and file the brief after supervisory review of the brief.

As to a *sample* of prior competing work, and consisting of only pleadings filed with the Court, briefing conferences held, and the implicit work surrounding them (not to include, for example, pleadings drafted but not yet filed, or necessary administrative work), during the week of July 1, 2019, to July 5, 2019, the

undersigned had prepared for and taken part in three briefing conferences. The week of July 8, 2019, to July 12, 2019, the undersigned took part in two briefing conferences. The week of July 15, 2019, to July 19, 2019, the undersigned filed a JMR, prepared for and took part in three briefing conferences, and filed five EAJA responses. The week of July 22, 2019 to July 26, 2019, the undersigned filed ten EAJA responses and two JMRs. The week of July 29, 2019, to August 2, 2019, the undersigned filed four JMRs. The week of August 5, 2019 to August 9, 2019, the undersigned filed a response to a Court Order, took part in two briefing conferences, filed four JMRs, and filed a brief. The week of August 12, 2019, to August 16, 2019, the undersigned filed two EAJA responses, and two JMRs, and had taken part in two briefing conferences. The week of August 19, 2019, to August 23, 2019, the undersigned filed four JMRs, a brief, two ROPs, and took part in two briefing conferences. This week, the undersigned has filed three JMRs, and will be filing a brief.

As for a sample of current and upcoming competing work, the undersigned, has *inter alia*, twelve other briefs due to the Court in the relevant period of time, in addition to thirteen EAJAs. The undersigned also has eight JMRs to negotiate, review and-or draft.

Appellant has been granted 45 days of extension time to review the record, and 45 days of extension time to file a brief, but has not been granted any other extension time for any other action in this appeal. The Secretary has not been

granted any extension time for any action in this matter. Appellant's counsel was contacted via e-mail and **she is unopposed to this motion.**

**WHEREFORE**, the Secretary respectfully requests that the Court grant the Secretary's motion for an extension of time to file a brief, until October 15, 2019.

Respectfully submitted,

**JAMES M. BYRNE**  
General Counsel

**MARY ANN FLYNN**  
Chief Counsel

/s/ Christopher W. Wallace  
**CHRISTOPHER W. WALLACE**  
Deputy Chief Counsel

August 29, 2019

/s/ Christopher W. Brown  
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