

**JOHN R. RATZER,**  
Appellant,  
  
v.  
  
**ROBERT L. WILKIE,**  
Secretary of Veterans Affairs,  
Appellee.

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) Vet. App. No. 18-0107  
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Under U.S. Vet. App. R. 39(a)(1), the Secretary does not contest Appellant's application's satisfaction of the requirements of the Equal Access to Justice Act (EAJA), 28 U.S.C. § 2412(d). Additionally, the Secretary waives any defense regarding whether 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).

## CONCLUSION

**WHEREFORE**, the Secretary advises the Court that he does not contest an EAJA award, up to \$22,451.48.

Respectfully submitted,

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Acting General Counsel

**MARY ANN FLYNN**  
Chief Counsel

/s/ Sarah Fusina  
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