

UNITED STATES COURT OF APPEALS FOR VETERANS CLAIMS

KENDRICK E. BRADLEY,	)	
Appellant,	)	
	)	
v.	)	CAVC No. 17-3797
	)	EAJA
	)	
ROBERT L. WILKIE,	)	
SECRETARY OF	)	
VETERANS AFFAIRS,	)	
Appellee	)	

APPELLANT’S REPLY TO APPELLEE’S RESPONSE TO SUPPLEMENTAL  
APPLICATION FOR ATTORNEY FEES AND EXPENSES

Appellant’s counsel found an alternative method of calculation for Ms. Cook’s hourly rate and presented it to the Secretary and, subsequently, to the Court in his Notice of Alternative Remedy filed on October 16, 2019. The work performed in finding this method was not due to a delay in conducting necessary research as Appellee alleges. Sec. Resp. at 15. It was part of the process of attempting to compromise with Appellee.

Throughout his response, Appellee accuses Appellant’s counsel of “incorrect calculations” relating to Ms. Cook’s hourly rate. Sec. Resp. at 7,10,12. This is not right. An alternative was proposed *by Mr. Bradley’s counsel* and the Secretary accepted. This was not a concession of any “incorrect” calculation. The Secretary frames it that way in a legally dubious attempt to avoid his

obligation to pay supplemental fees. Appellant's counsel successfully defended the initial EAJA Application.

Counsel in no way meant to "distract" the Court as the Secretary alleges at page 9 of his response. The undersigned understands the Secretary's desire to avoid paying supplemental fees, but the Secretary has no legal basis to avoid his obligation. And to address the brief alternative argument regarding reasonableness found at page 7 of the Secretary's response, counsel has offered to discuss his supplemental application with the Secretary, to no avail. *See* Court Rule 39(b)(1). The fact remains that Mr. Bradley is entitled to supplemental fees. The Secretary's position that he "did not successfully defend his initial application" is wrong. Sec. Resp. at 14.

Appellant respectfully requests the Court grant Appellant an award of supplemental EAJA fees and expenses in the amount of \$8,872.06.

Respectfully submitted,  
Kendrick E. Bradley  
By His Attorneys,  
CHISHOLM CHISHOLM & KILPATRICK  
/s/Zachary M. Stolz  
321 S Main St #200  
Providence, Rhode Island 02903  
(401) 331-6300  
Fax: (401) 421-3185