

MARK R. LABELLE,
Appellant,

v.

ROBERT L. WILKIE,
Secretary of Veterans Affairs,
Appellee.

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Vet.App. No. 19-0948

Pursuant to U.S. Vet. App. Rule 39(a), 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.

The Secretary, for the sole purpose of avoiding further litigation and the costs related thereto, does not contest the reasonableness of Appellant's attorney fees or expenses, in the instant case, under the current case law (see 28 U.S.C. § 2412(d)(1)(C)) and is prepared to make payment to Appellant and

his representative of record. The Secretary's concession here, however, in no way denotes the Secretary's position as to any issue or matter presented herein which 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.

WHEREFORE, Appellee, Robert L. Wilkie, Secretary of Veterans Affairs, 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 \$9,248.73¹.

Respectfully submitted,

WILLIAM A. HUDSON, JR.
Principal Deputy General Counsel

MARY ANN FLYNN
Chief Counsel

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

/s/ Safiya L. Dixon
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¹ Appellant agreed to a reduction from \$11,596.19, following negotiation.