

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

CAROLYN CLARK,	)	
	)	
Appellant,	)	
	)	
v.	)	
	)	Vet. App. No. 21-1124
DENIS McDONOUGH,	)	
Secretary of Veterans Affairs,	)	
	)	
Appellee.	)	
	)	

NOTICE OF SUPPLEMENTAL AUTHORITY

“When pertinent and significant authority comes to the attention of a party after the party’s brief has been filed,” U.S. Vet. App. Rule 30(b) requires that the “party shall promptly file notice with the Clerk and serve all other parties.” The notice must “set forth the citation(s) to the authority” and “refer to the page of the brief ... to which each citation pertains, and shall state without argument the reasons for the supplemental citation(s).” *Id.*

On May 17, 2022, the Federal Circuit issued a precedential decision in *Groves v. McDonough*, Fed. Cir. No. 21-2081, ___ F.4th ___, 2021 WL _____. The Federal Circuit reviewed on the merits this Court’s three-judge panel decision that had reviewed on the merits the motion to enjoin the Board of Veterans’ Appeals that the appellant had filed with that tribunal. The Federal Circuit reversed this Court’s holding as to what legal standards govern such motions. *See slip op.* at 1, 7–11. The Federal Circuit held that the governing legal standard is not that the Board must grant an automatic indefinite stay upon the appellant’s motion but instead is of “good cause.” *See id.* at 7–11.

Here, on August 2, 2021, the Appellant, Carolyn Clark (“Mrs. Clark”) filed a Response in Opposition to the Motion to Dismiss that the Secretary had filed in this appeal (“MTD Opposition”). At pages 1 through 9 of the MTD Opposition, Mrs. Clark argued among other points that this Court has jurisdiction to review a Board denial of a motion made to the Board. At page 9, she cited this Court’s decision in *Groves* in support of that argument. Mrs. Clark, through counsel, presented at length the same position during this appeal’s May 3, 2022, oral argument. Additionally, both parties, through counsel, referred during the oral argument to this Court’s decision in *Groves*.

Mrs. Clark is submitting the Federal Circuit’s decision in *Groves* as significant and pertinent authority for two reasons. First, she understands the fact that the Federal Circuit in *Groves* proceeded past whether this Court had jurisdiction over Mr. Groves’s appeal from the Board’s response to Mr. Groves’s motion to enjoin the Board, to substantively what legal standards govern such motions, to be significant and pertinent to Mrs. Clark’s written and oral arguments that this Court possesses jurisdiction over Board denials of motions made to the Board. Second, Mrs. Clark also understands the Federal Circuit’s reversal of this Court’s decision in *Groves* to be pertinent and significant in the light of both parties’ references in this appeal to this Court’s decision in *Groves*.

May 17, 2022

Respectfully submitted,

/s/ John D. Niles

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