

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 Appellant's

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. The parties have discussed the matter and agreed to a fee of \$36,500.00.

WHEREFORE, Appellee, Denis McDonough, 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 **\$36,500.00**.

Respectfully submitted,

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