No. 17-1821

IN THE
United States Court of Appeals for the Federal Circuit

ALFRED PROCOPIO, JR.,
Claimant-Appellant,
v.

ROBERT WILKIE,
Secretary of Veterans Affairs
Respondent-Appellee,

On Appeal from the United States Court of Appeals for Veterans Claims, No. 15-4082
Hon. Coral W. Pietsch

CORRECTED BRIEF OF AMICUS CURIAE NATIONAL LAW SCHOOL VETERANS CLINIC CONSORTIUM IN SUPPORT OF APPELLANT ALFRED PROCOPIO, JR., SUPPORTING REVERSAL

Angela K. Drake
Supervising Attorney and Instructor
The Veterans Clinic
University of Missouri School of Law
225 Hulston Hall
Columbia, Missouri 65211
Counsel for Amicus Curiae

October 12, 2018

FORM 9. Certificate of Interest

Form 9
Rev. 10/17

UNITED STATES COURT OF APPEALS FOR THE FEDERAL CIRCUIT

Alfred Procopio,Jr., Claimant-Appellant **v.** Robert Wilkie, Sec. of Veterans Affairs, Appellee

Case No. 17-1821

CERTIFICATE OF INTEREST

Counsel for the:
☐ (petitioner) ☐ (appellant) ☐ (respondent) ☐ (appellee) ■ (amicus) ☐ (name of party)

Angela K. Drake

certifies the following (use "None" if applicable; use extra sheets if necessary):

1. Full Name of Party Represented by me	2. Name of Real Party in interest (Please only include any real party in interest NOT identified in Question 3) represented by me is:	3. Parent corporations and publicly held companies that own 10% or more of stock in the party
National Law School Veterans Clinic Consortium	(same)	none

4. The names of all law firms and the partners or associates that appeared for the party or amicus now represented by me in the trial court or agency or are expected to appear in this court **(and who have not or will not enter an appearance in this case)** are:

None

FORM 9. Certificate of Interest

Form 9
Rev. 10/17

5. The title and number of any case known to counsel to be pending in this or any other court or agency that will directly affect or be directly affected by this court's decision in the pending appeal. *See* Fed. Cir. R. 47. 4(a)(5) and 47.5(b). (The parties should attach continuation pages as necessary).

None

10/12/2018
Date

/s/ Angela K. Drake
Signature of counsel

Please Note: All questions must be answered

Angela K. Drake
Printed name of counsel

cc: _____

Reset Fields

TABLE OF CONTENTS

Page

TABLE OF AUTHORITIES

Page(s)

Cases

Statutes

Rules

Other Authorities

IDENTITY OF AMICUS CURIAE, ITS INTEREST IN THE CASE, AND SOURCE OF AUTHORITY TO FILE

The NLSVCC submits this brief in support of the position of the Appellant, Alfred Procopio, Jr. The filing of this brief was authorized by the Board of the NLSVCC, a 501(c)(3) organization.[1]

The NLSVCC is a collaborative effort of the nation's law school legal clinics dedicated to addressing the unique legal needs of U.S. military veterans on a pro bono basis. The Consortium's mission is, working with like-minded stakeholders, to gain support and advance common interests with the VA, U.S. Congress, state and local veterans service organizations, court systems, educators, and all other entities for the benefit of veterans throughout the country.

The NVLSCC exists to promote the fair treatment of veterans. It therefore is keenly interested in this case and is grateful for the opportunity to advocate in support of Blue Water Navy Veterans who

[1] This brief writer is identified in the signature block above. NLSVCC wishes to thank and acknowledge Brent Filbert, Sergio Tarin and Rachel Mitchell of the Veterans Clinic, and Emmett Logan, a partner in the law firm of Stinson Leonard Street, LLP in Kansas City, Missouri for their valuable help in editing the brief.

have been unfairly impacted by the Secretary's erroneous interpretation and implementation of the Agent Orange Act.

STATEMENTS PURSUANT TO FEDERAL RULE OF APPELLATE PROCEDURE 29(a)(4)(E)

Pursuant to Federal Rule of Appellate Procedure 29(a)(4)(E) and the Federal Circuit Rule 29(a), the NLSVCC states:

a) No party's counsel has authored this brief in whole or part;

b) No party or party's counsel has contributed money intended to fund the preparation or submission of this brief;

c) No other person has contributed money intended to fund the preparation or submission of this brief.

ARGUMENT

The preamble to the Agent Orange Act of 1991 (the "Agent Orange Act" or the "Act") states that its purpose is "to provide for the Secretary of Veterans Affairs to obtain independent scientific review of the available scientific evidence regarding associations between diseases and exposure to dioxin and other chemical compounds in herbicides."[2] In contravention of that stated purpose, the VA has interpreted the Act in a manner that ignores and misapplies scientific evidence demonstrating an association between service on board U.S. Navy ships off the coast of Vietnam and the occurrence of diseases presumed to have been caused by exposure to Agent Orange. That interpretation is entitled to no judicial deference.

Soldiers, airmen, marines and sailors fought in the Vietnam War. For many of these individuals, the ravages of the war continued long after 1975, when the effects of exposure to the herbicide known as "Agent Orange" detrimentally impacted their health. In 1991, Congress acted to protect veterans suffering from Agent Orange. On

[2] Agent Orange Act of 1991, P.L. 102-4, 105 Stat. 11 (codified as amended at 38 U.S.C. § 1116).

the basis of scientific evidence that tended to show a link between adverse health effects and exposure to Agent Orange, Congress passed the Act. Under § 2 of the Act, certain diseases "shall be considered to have been incurred or aggravated" by military service if the veteran "served in the Republic of Vietnam during the period beginning on January 9, 1962, and ending on May 7, 1975."[3] The "presumption" of causation applies to "military, naval, or air service" veterans alike, simplifying the disability claims process.

With the presumption of exposure in place, the Agent Orange Act enabled many Vietnam War veterans to successfully assert claims for the disability benefits earned by their honorable service to our nation. Not all Vietnam Veterans, however, receive the benefit of the Act; "Blue Water" Navy veterans must face an arduous VA claims process that requires direct proof of actual exposure to Agent Orange.

Mr. Procopio's brief explains that Congress did not exclude Blue Water Navy Veterans from the favorable presumption because the Act is unambiguous in its reach, particularly in light of the rule that the statute must be construed in favor of claimants. Even if the statutory

[3] 38 U.S.C. § 1116(a)(1), § 1116 (a)(1)(B).

language was ambiguous, this Court is not obliged to defer to the agency's interpretation of the statute, because the VA's interpretation ignores critical scientific evidence – including a scientific study that the VA itself commissioned. The VA's interpretation, therefore, is plainly erroneous and does not represent the agency's considered view on the matter.[4]

This brief focuses on the scientific evidence relating to the likelihood that Blue Water Navy Veterans were exposed to Agent Orange, just as other service members in Vietnam were also likely exposed. Based upon scientific evidence, Blue Water Navy Veterans should be entitled to the presumption of Agent Orange exposure.

I. The Scientific Evidence Matters

The Agent Orange Act is a product of a long-running effort by Congress to provide for the fair treatment of veterans through an

[4] *See* Auer v. Robbins, 519 U.S. 452, 461–62 (1997) (deference is unwarranted when there is reason to suspect that the agency's interpretation "does not reflect the agency's fair and considered judgment on the matter in question."); *See also*, Christopher v. SmithKline Beecham Corp., 567 U.S. 142, 152 (2012).

examination of scientific evidence that links certain diseases to dioxin exposure. The effort began at least as early as 1979, when Congress directed the VA to conduct scientific studies to determine if there might be long-term health effects from such exposure.[5] The effort continued through the 1980's, when congressional committees commissioned and considered studies performed by the VA and by the Centers for Disease Control (the "CDC").[6] The "CDC ultimately concluded that it had validated no scientific method of identifying a group of veterans who were highly exposed to Agent Orange."[7] In response, the VA promulgated narrow and conflicting regulations establishing a limited presumption of causation.[8] Dissatisfied with that response, Congress enacted the Agent Orange Act.

The Act not only established the presumption of causation for certain diseases, it:

---

[5] Veterans Health Programs Extension and Improvement Act of 1979, P.L. 96-151, § 307, 93 Stat. 1092, 1097-98 (1979) (formally codified at 38 U.S.C. § 219).
[6] *See* Haas v. Peake, 525 F.3d 1168, 1177-78 (Fed. Cir. 2008).
[7] *Id.* at 1177.
[8] *Id.* at 1178-79.

- directed the VA to promulgate regulations applying the causation presumption to any disease found—"on the basis of sound medical and scientific evidence"—to be associated with herbicide exposure;[9]
- required the VA to make its determinations of what diseases are associated with which herbicides based on studies performed by the National Academy of Sciences and "all other sound medical and scientific information and analyses available to the VA;"[10] and
- directed the VA to enter into an agreement with the National Academy of Sciences to review, assess, and report on available scientific studies of the relationship between herbicide exposure and each disease suspected to be associated with such exposure.[11]

Congress thus plainly stated its intent that the causation presumption is to be applied on the basis of all available scientific evidence.

II. The Flawed Underpinning of the VA's Regulation

To receive disability compensation, a veteran must establish that the disability was service connected, which means that it must have

[9] 38 U.S.C. § 1116(b)(1).
[10] 38 U.S.C. § 1116(b)(2).
[11] 38 U.S.C. § 1116 Note, Pub.L. 102-4, § 3.

been "incurred or aggravated. . .in line of duty in the active military, naval, or air service."[12] The Agent Orange Act provides that for certain veterans and certain diseases, both exposure and service connection are presumed to be established.[13] If a veteran can prove that he or she has one of the listed diseases and "served in the Republic of Vietnam" between January 9, 1962, and May 7, 1975, the disease will "be considered to have been incurred in or aggravated by such service."[14] By regulation, the VA has interpreted the phrase "served in the Republic of Vietnam" to mean that the veteran's service must have involved "duty or visitation" in the Republic of Vietnam in order for the veteran to be entitled to the statutory presumption of service connection.[15] That regulation, as well as the VA's Adjudication Manual, made the statutory presumption of service connection unavailable to veterans who served on naval vessels that traveled in the waters near Vietnam but who never went ashore.

Haas v. Peake[16] held that VA's requirement that a claimant have

[12] 38 U.S.C. § 101(16).
[13] 38 U.S.C. § 1116(a)(1).
[14] 38 U.S.C. § 1116(a)(1), (a)(1)(A).
[15] *See* 38 C.F.R. § 3.307(a)(6)(iii).
[16] 525 F.3d 1168 (Fed. Cir. 2008).

been present within the land borders of Vietnam at some point in the course of duty constituted a permissible interpretation of the statute. In that case, the VA asserted that, because Agent Orange was sprayed only on land, the best proxy for exposure is whether a veteran was present within the land borders of the Republic of Vietnam. The VA explained:

> Blue Water Navy service members and other personnel who operated off shore were away from herbicide spray flight paths, and therefore were not likely to have incurred a risk of exposure to herbicide agents comparable to those who served in foliated areas where herbicides were applied.[17]

That explanation is based on the VA's misunderstanding of potential pathways of exposure of Agent Orange for personnel serving in ships off the coast of Vietnam. The assumption by the VA that personnel on ships would not be exposed to Agent Orange because they were not in herbicide spray flight paths is not scientifically supportable. The VA's assumption is erroneous because studies demonstrate plausible pathways of exposure for off-shore shipboard personnel.

[17] 73 Fed. Reg. 20,566, 20,568 (Apr. 16, 2008); Haas, at 1192.

III. Scientific Studies Establish Exposure Pathways for Blue Water Navy Veterans

In the years following the end of the Vietnam War, scientific studies were published that raised the possibility that Blue Water Navy Veterans suffered diseases from exposure to Agent Orange.[18] As a result, scientists to begin to investigate possible pathways of Agent Orange exposure for these veterans.

A. Scientific Studies Prior to *Haas* Demonstrated a Pathway for Exposure for Agent Orange for Blue Water Navy Veterans

In 2002, the University of Queensland's National Research Centre for Environmental Toxicology (NRCET) conducted a study to

---

[18] *See* The Association of Selected Cancers with Service in the U.S. Military in Vietnam Study, Part 1-5, CDC ("Selected Cancers Study") (1990), https://www.cdc.gov/nceh/veterans/default1d.htm (last visited Oct 2018) (Study found that Blue Water Navy Veterans had a statistically significant increased risk of Non-Hodgkin's Lymphoma relative to men who did not serve in Vietnam.); Australian Institute of Health and Welfare, Cancer Incidence in Australian Vietnam Veterans Study 2005 xix (2005), https://www.dva.gov.au/sites/default/files/files/consultation and grants/healthstudies/mortcanvietvet/cancer_incidence.pdf (last visited Oct 2018) (found that Royal Australian Navy Blue Water Navy veterans had an overall increased rate of cancer of 22-26% compared to personnel who did not serve in Vietnam).

investigate the potential for exposure of sailors to contaminants via drinking water.[19] The 2002 NRCET study was conducted because studies of Australian Vietnam veterans revealed greater than expected mortality, with the highest overall levels of mortality occurring among the Australian sailors.[20] The 2002 NRCET study showed that shipboard distillers could collect runoff water contaminated with Agent Orange, which would have enhanced dioxin presence in potable water ingested by personnel onboard U.S. Navy and Royal Australian Navy ships operating off the coast of Vietnam.[21]

This study found that the evaporative distillation of water does not remove but rather *enriches* certain contaminants such as dioxins in drinking water. The study explained that subsequent ingestion by sailors on board ships (as well as soldiers and airmen, who were passengers) is therefore a vector for exposure to these chemicals. The

---

[19] NRCET, Examination of the Potential Exposure of Royal Australian Navy (RAN) Personnel to Polychlorinated Dibenzodioxins and Polychlorinated Dibenzofurans Via Drinking Water (2002), https://www.dva.gov.au/sites/default/files/files/consultation%20and%20grants/healthstudies/nrcet.pdf. (last visited Oct 2018).

[20] *Id.* at 5.

[21] *Id.* at 6-8.

study concluded that, "while it is unlikely that accurate exposure of the personnel on board ships can be estimated, the study findings suggest that the personnel on board ships were exposed to biologically significant quantities of dioxins."[22]

Even before the 2002 NRCET Study, it had been demonstrated that Agent Orange-associated dioxin can travel long distances from where it enters the ocean from a river emptying into the sea. In 1988, a study tracing the effects of Agent Orange dumped in Passaic River in New Jersey (near where it was manufactured), showed that dioxin was found in seafood 150 miles from the shore where the River emptied out.[23]

Given these studies, the VA's position that Blue Water Navy Veterans were away from herbicide spray flight paths, and therefore "not likely" to have incurred a risk of exposure to herbicide agents, is fundamentally flawed.

---

[22] *Id.* at 7-8.

[23] Thomas J. Belton et al., N.J. Dep't of Envtl. Protection, 2,3,7,8-Tetrachlorodibenzo-p-Dioxin (TCDD) and 2,3,7,8-Tetrachlorodibenzo-p-Furan (TCDF) in Blue Crabs and American Lobsters from the New York Bight (1988), https://www.state.nj.us/dep/dsr/dioxin/lobstersdioxin.pdf. (last visited Oct 2018).

B. A Scientific Study Commissioned by the VA Confirmed Off-Shore Exposure to Agent Orange

In 2009, the Institute of Medicine (IOM) recommended that Blue Water Navy personnel *not* be excluded from the presumption of Agent Orange exposure, noting that limiting the presumption "seem[ed] inappropriate" because "there is little reason to believe that exposure of US military personnel to the herbicides sprayed in Vietnam was limited to those who actually set foot in the Republic of Vietnam."[24] Having reviewed the 2002 NRCET study on the fate of dioxin when seawater is distilled to produce drinking water, the committee stated that it was convinced that this use of seawater would provide a feasible route of exposure of personnel in the Blue Water Navy.[25]

The growing concern that Vietnam Blue Water Veterans were exposed to Agent Orange prompted the VA to task the IOM with establishing a committee to study whether personnel serving on ships off the coast of Vietnam experienced exposures to Agent Orange and

[24] Institute of Medicine, Veterans and Agent Orange Update 2008 655-57 (2009), https://www.nap.edu/read/12662. (last visited Oct 2018).
[25] *Id.* at 655-57.

other herbicides.[26] The result was the publication of the 2011 Blue Water Navy Vietnam Veterans and Agent Orange Exposure Study ("2011 Blue Water Navy Study").

The 2011 Blue Water Navy Study analyzed information relevant to the potential pathways of Agent Orange exposure applicable to Blue Water Navy Veterans.[27] This analysis included review of published peer-reviewed literature, models for assessing the environmental concentrations of Agent Orange, anecdotal information from veterans and other interested parties on veteran experiences during the war and afterwards, other accounts of the war (including memoirs), government documents, and ships' deck logs. The IOM committee also held open sessions to hear directly from veterans about their experiences with Agent Orange while they served in the Vietnam War.[28]

The 2011 Blue Water Navy Study identified several plausible exposure pathways of Blue Water Navy personnel to Agent Orange–associated dioxin. Plausible pathways and routes of exposure include

---

[26] Institute of Medicine, Blue Water Navy Vietnam Veterans and Agent Orange Exposure 2 (2011), https://www.nap.edu/read/13026. (last visited Oct 2018).
[27] *Id.* at 8-11.
[28] *Id.* at 4-5.

inhalation and dermal contact with aerosols from spraying operations that occurred at or near the coast when Blue Water Navy ships were nearby, contact with marine water, and uses of potable water prepared from distilled marine water.[29]

The 2011 Blue Water Navy Study specifically corroborated the Australian NRCET study, finding that the water-distillation system used on Navy ships had the potential to enrich dioxin concentrations in distilled potable water.[30] The 2011 study also made clear that the results of the Australian study applied equally to veterans of the United States Navy. It found substantial co-distillation of dioxin during production of potable water with a batch distillation unit that was commonly used in our Blue Water Navy vessels. The 2011 study concluded that if "Agent Orange–associated TCDD was present in the marine water, distilled potable water would be a plausible pathway of exposure."[31]

---

[29] *Id.* at 10-11.
[30] *Id.* at 11. The study explained that large US Navy ships—such as aircraft carriers, cruisers, and destroyers—had their own potable-water supply and distribution systems that included water-treatment processes. Potable water was produced by distillation of marine water.
[31] *Id.* at 11.

C. The VA Misapplied the 2011 Blue Water Navy Study

Following the publication of the 2011 Blue Water Navy Study, the Secretary published a notice stating that, based on the Report, it would continue to deny the presumption of exposure to Agent Orange for Blue Water Navy veterans.[32] In doing so, the VA seized on one clause in the Blue Water Navy Study, which states that "the committee was unable to state **with certainty** whether Blue Water Navy personnel were or were not exposed to Agent Orange and its associated TCDD."[33] (emphasis supplied). The next sentence of the study, however, states:

> Moreover, the committee concluded that it could not state with certainty that exposures to Blue Water Navy personnel, taken as a group, were qualitatively different from their Brown Water Navy and ground troop counterparts.[34]

There are, therefore, two fundamental problems with the VA's interpretation of the 2011 study. First, the interpretation seeks to support the VA's disparate treatment of Blue Water Navy veterans, on

---

[32] *See* 77 Fed. Reg. 76,170 (Dec. 26, 2012).
[33] Institute of Medicine, Blue Water Navy Vietnam Veterans and Agent Orange Exposure 13 (2011), https://www.nap.edu/read/13026. (last visited Oct 2018).
[34] *Id.*

the one hand, and Brown Water Navy and ground troop veterans, on the other hand, with a study that shows there is absolutely no basis for that disparate treatment. Second, the VA's interpretation flips the pro-claimant canon of statutory construction, by requiring "certain" evidence of a positive association between Blue Water Navy service and dioxin exposure.

Given that the IOM study finds no distinction between exposures of Blue Water Navy and other service members, it is irrational to deny the presumption for Blue Water Veterans in light of the scientific evidence read as a whole. Having misapplied the 2011 Blue Water Navy Study—which the VA itself commissioned—the VA did not render a fair and considered judgment on the matter in question.

D. Contamination of Drinking Water is a Pathway of Exposure

The studies' findings that dioxin could end up in potable water on board ships off the coast of Vietnam is critical because contamination of drinking water is a well-established pathway for exposure to disease-causing toxins. In fact, the VA currently deems a large of number conditions as presumptively caused by exposure to drinking water for personnel stationed for at least 30 days at the Camp Lejeune Marine

Corps Base between 1953 and 1987.[35] The decision to deem certain Camp Lejuene personnel as presumptively exposed to toxins is based on epidemiological studies conducted by the Agency for Toxic Substances and Disease Registry (ATSDR).[36] These epidemiological studies used data from extensive water modeling to reconstruct monthly levels of contaminants in the drinking water.[37] The presumption was established for Camp Lejuene personnel even though the studies evaluated by the ATSDR provided very limited information concerning the level or duration of exposure associated with an increased risk of a cancer or other disease.[38] Just as drinking water at Camp Lejeune exposed service members to contaminants, Blue Water Navy Veterans drinking contaminated water onboard ships were

---

[35] U.S. Department of Veterans Affairs, Compensation and Pension Service, Exposure to Contaminated Drinking Water at Camp Lejeune (2018), https://www.benefits.va.gov/COMPENSATION/claims-postservice-exposures-camp-lejeune-water.asp. (last visited Oct 2018).
[36] Agency for Toxic and Substances and Disease Registry, ATSDR Assessment of the Evidence for the Drinking Water Contaminants at Camp Lejeune and Specific Cancers and Other Diseases 2 (2017), https://www.atsdr.cdc.gov/sites/lejeune/docs/atsdr_summary_of_the_evidence_for_causality_tce_pce_508.pdf. (last visited Oct 2018).
[37] *Id.* (citing Bove et al. 2014a; Bove et al. 2014b; Ruckart et al. 2015; Maslia et al. 2007, 2013).
[38] *Id.* at 11.

exposed to toxins such as Agent Orange.

E. The VA Has Applied the Wrong Standard in its Analysis of Scientific Evidence.

The VA has persisted in its narrow interpretation of the Agent Orange Act, in the face of the 2011 Blue Water Navy Study that it commissioned, because the study did not demonstrate with "certainty" that Blue Water Navy personnel were or were not exposed to Agent Orange. The VA also rejected the 2002 NRCET study because "VA scientists and experts" had found problems with the study.[39] In insisting that the causation presumption of the Agent Orange Act may be accorded to Blue Water Navy Veterans only based on certain, problem-free studies, the VA is thwarting the intent of Congress.

First, "uncertainty" of exposure for Brown Water Navy and ground troop veterans is precisely the reason for the presumption. It is impossible for any Vietnam Veteran to quantify exactly the level of his exposure and the pathway that particular exposure took into the veteran's body, leading to the disease.[40] Congress passed the Agent

---

[39] 73 Fed. Reg. 20,566, 20,568 (Apr. 16, 2008).

[40] *See e.g.*, Institute of Medicine, Veterans and Agent Orange Update 2008, at 23-24 (2009), available at http://nap.edu/12662 ("IOM 2008

Orange Act only after the CDC concluded that that "it had validated no scientific method of identifying a group of veterans who were highly exposed to Agent Orange."[41] In directing the VA to enter into an agreement with the National Academy of Sciences, moreover, Congress did not insist on scientific certainty but required analysis of "statistical association," "increased risk," and "plausible biological mechanism."[42] Second, to interpret any statute that affects veteran's benefits in a manner that resolves all doubt against the claimant violates the intent of Congress. Contrary to the VA's interpretation, "provisions for benefits to members of the Armed Services are to be construed in the beneficiaries' favor."[43] Courts, moreover, presume that "Congress legislates with knowledge of" that basic rule of statutory construction.[44]

The VA should have resolved any doubt in the 2011 Blue Water Navy Study in favor of veterans. Had it done so, it would have

---

Update") (noting uncertainties around health effects have persisted through decades of research).

[41] Haas, at 1177.

[42] Agent Orange Act of 1991, P.L. 102-4 § 3(d), 105 Stat. 11 (codified as amended at 38 U.S.C. § 1116).

[43] King v. St. Vincent's Hosp., 502 U.S. 215, 220 (1991).

[44] *Id.* (quoting McNary v. Haitian Refugee Center, Inc., 498 U.S. 479, 496 (1991)).

interpreted the phrase "in the Republic of Vietnam" in the Agent Orange Act to include the territorial waters of Vietnam. The VA's contrary decision should not be accorded judicial deference.

CONCLUSION

As requested by Alfred Procopio, Jr. the Court should reverse the judgment of the Court of Appeals for Veterans Claims.

/s/ Angela K. Drake
Angela K. Drake
Supervising Attorney and Instructor
The Veterans Clinic
University of Missouri School of Law
225 Hulston Hall
Columbia, Missouri 65211
Counsel for Amicus Curiae

FORM 30. Certificate of Service

Form 30
Rev. 03/16

UNITED STATES COURT OF APPEALS FOR THE FEDERAL CIRCUIT

CERTIFICATE OF SERVICE

I certify that I served a copy on counsel of record on October 12, 2018 by:

- ☐ U.S. Mail
- ☐ Fax
- ☐ Hand
- ☒ Electronic Means (by E-mail or CM/ECF)

Angela K. Drake	/s/ Angela K. Drake
Name of Counsel	Signature of Counsel

Law Firm	University of Missouri School of Law Veterans Clinic
Address	203 Hulston Hall
City, State, Zip	Columbia, MO 65211
Telephone Number	573-882-7630
Fax Number	573-882-7996
E-Mail Address	drakea@missouri.edu

NOTE: For attorneys filing documents electronically, the name of the filer under whose log-in and password a document is submitted must be preceded by an "/s/" and typed in the space where the signature would otherwise appear. Graphic and other electronic signatures are discouraged.

Reset Fields

FORM 19. Certificate of Compliance With Rule 32(a)

Form 19
Rev. 12/16

UNITED STATES COURT OF APPEALS FOR THE FEDERAL CIRCUIT

CERTIFICATE OF COMPLIANCE WITH TYPE-VOLUME LIMITATION, TYPEFACE REQUIREMENTS, AND TYPE STYLE REQUIREMENTS

1. This brief complies with the type-volume limitation of Federal Rule of Federal Circuit Rule 32(a) or Federal Rule of Federal Circuit Rule 28.1.

☒ This brief contains [*state the number of*] 3432 words, excluding the parts of the brief exempted by Federal Rule of Appellate Procedure 32(f), or

☐ This brief uses a monospaced typeface and contains [*state the number of*] _____ lines of text, excluding the parts of the brief exempted by Federal Rule of Appellate Procedure 32(f).

2. This brief complies with the typeface requirements of Federal Rule of Appellate Procedure 32(a)(5) or Federal Rule of Federal Circuit Rule 28.1 and the type style requirements of Federal Rule of Appellate Procedure 32(a)(6).

☒ This brief has been prepared in a proportionally spaced typeface using

[*state name and version of word processing program*] Microsoft Word in

[*state font size and name of type style*] Century Schoolbook , or

☐ This brief has been prepared in a monospaced typeface using

[*state name and version of word processing program*] _____ with

[*state number of characters per inch and name of type style*] _____ .

/s/ Angela K. Drake

(Signature of Attorney)

Angela K. Drake

(Name of Attorney)

National Law School Veterans Clinic Consortium

(State whether representing appellant, appellee, etc.)

Oct 12, 2018

(Date)

Reset Fields