

ARMED SERVICES BOARD OF CONTRACT APPEALS

Application Under the Equal Access)
to Justice Act --)
)
Industrial Steel, Inc.) ASBCA No. 50754
)
Under Contract No. NAS10-12019)

APPEARANCE FOR THE APPELLANT: Edward J. Kinberg, Esq.
Melbourne, FL

APPEARANCE FOR THE GOVERNMENT: Geoffrey S. Swanson, Esq.
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OPINION BY ADMINISTRATIVE JUDGE DICUS
ON RESPONDENT'S MOTION FOR RECONSIDERATION

In our decision of 24 May 1999 (99-2 BCA ¶ 30,399) we held that appellant was entitled to attorney's fees and expenses under the Equal Access to Justice Act (EAJA), 5 U.S.C. § 504. We remanded the matter to the parties to negotiate EAJA fees and expenses. Respondent has filed a Motion for Reconsideration asserting that the Board erred by not apportioning fees. Appellant opposes the Motion.

We have carefully considered the parties' submissions and deny the motion. While respondent takes strong exception to the Board's decision, respondent's motion is not based upon any newly discovered evidence or legal theories which the Board failed to consider in formulating its original decision. We are not persuaded to alter our decision.

Accordingly, respondent's motion for reconsideration is denied.

Dated: 8 June 2000

CARROLL C. DICUS, JR.
Administrative Judge
Armed Services Board
of Contract Appeals

(Signature continued)

I concur

MARK N. STEMLER
Administrative Judge
Acting Chairman
Armed Services Board
of Contract Appeals

I certify that the foregoing is a true copy of the Opinion and Decision of the Armed Services Board of Contract Appeals on an application for fees and other expenses incurred in connection with ASBCA No. 50754, Appeal of Industrial Steel, Inc., rendered in accordance with 5 U.S.C. § 504.

Dated:

EDWARD S. ADAMKEWICZ
Recorder, Armed Services
Board of Contract Appeals