

Department of Justice

Washington 25, D. C., May 26, 1953

Ellie L. Baburn, et al

vs.

THE UNITED STATES

IN THE COURT OF CLAIMS NO. 23-53

SIR:

As required by Section 188 of the Revised Statutes, I herewith transmit a copy of the petition filed in the above-entitled suit, and request that your department furnish to me all the evidence in your possession touching the claim therein set forth.

I invite your attention to the following provisions of the said section relating to the duty of the department responding to such request:

Such department, bureau, or office shall, without delay, and within a reasonable time, furnish the Attorney General with a full statement, in writing, of all such facts, information, and proofs.

The statement shall contain a reference to or description of all such official documents or papers, if any, as may furnish proof of facts referred to in it, or may be necessary and proper for the defense of the United States against the claim, mentioning the department, office, or place where the same is kept or may be procured.

If the claim has been passed upon and decided by the department, bureau, or officer, the statement shall succinctly state the reasons and principles upon which such decision was based.

In all cases where such decision was founded upon any Act of Congress, or upon any section or clause of such Act, the same shall be cited specifically; and if any previous interpretation or construction has been given to such Act, section, or clause by the department, bureau, or officer, the same shall be set forth succinctly in the statement, and a copy of the opinion filed, if any, shall be annexed to it.

Where any decision in the case has been based upon any regulation of the department or where such regulation has, in the opinion of the department, bureau, or officer transmitting such statement, any bearing upon the claim in suit, the same shall be distinctly quoted at length in the statement.

You are especially requested to advise me of any counterclaim, set-off, or other demand existing in your department which would furnish the basis of a cross action against the claimant.

It is desired also that you transmit to me, upon a separate sheet, a list containing the names and addresses of officers and other persons who can probably testify on behalf of the Government, stating, as to each of them, his official position, if any, his direct connection with the matters in litigation, and the period thereof, together with a brief summary of those matters concerning which he can testify.

A rule of the court requires that the Government's answer must be filed within 40 days after the filing of the petition. It is essential, therefore, that at least a preliminary response to this call be returned to the Department of Justice within 20 days after the petition has been filed, so that sufficient time may be allowed to prepare and file whatever pleading may be deemed appropriate.

Respectfully,

For the Attorney General,

/s/ Warren E. Burger

Assistant Attorney General

Civil Division

Hon. Judge Advocate General

Department of the Army