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UNITED STATES GENERAL ACCOUNTING OFFICE
WASHINGTON, D.C. 20548

A. J. Jones
G.A.O.



IN REPLY REFER TO: B-188413

OFFICE OF GENERAL COUNSEL

JAN 4 1979

The Honorable Griffin B. Bell
The Attorney General

Dear Mr. Attorney General:

By letter of July 7, 1978, copy enclosed, we reported to you a claim due and asserted against Mr. John Morgerson in the amount of \$2,357.64. The report was made at the request of Mr. Morgerson's attorney pursuant to 5 U.S.C. § 5512(b)(1976) so that suit could be instituted against Mr. Morgerson to adjudicate the matter in the appropriate United States District Court.

Briefly stated, Mr. Morgerson was employed as a Special Messenger by the Veterans Administration (VA) Hospital in Lexington, Kentucky. On January 7, 1976, Mr. Morgerson was making a series of deliveries, including a locked money pouch containing \$2,357.64 he had picked up from the cashier's office at the VA Hospital. When he arrived at his designation, he discovered the pouch missing from the trunk of the Government vehicle he was driving. A request for relief of Mr. Morgerson for the loss of the money pursuant to 31 U.S.C. § 82a-1 was denied by our Office (B-188413, June 30, 1977, copy enclosed). In January, 1978, the VA began to deduct \$46 per bi-weekly pay period from Mr. Morgerson's paycheck pursuant to 5 U.S.C. § 5512(a), to continue until the entire amount of the loss was repaid. *Indle*

On January 30, 1978, Mr. Morgerson filed suit in the United States District Court, Eastern District of Kentucky, to enjoin the VA from making the deductions. John Morgerson v. J.C. Abbot et al., Civ. No. 78-21. On May 3, 1978, the defendant moved for dismissal or summary judgment, arguing that the plaintiff has an adequate remedy by requiring the United States to sue under the provisions of 5 U.S.C. § 5512(b). By letter dated May 22, 1978 (your reference BAB:MFEvens:bfg, 145-3-1932), we were advised by Assistant Attorney General Barbara Allen Babcock that an Agreed Order of Dismissal had been entered on May 4, apparently as a result of the Government's motion. Presumably in consequence of this action, the plaintiff requested that we make the statutory report.

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Letter

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Since January, 1978, \$736 has been withheld from Mr. Morgerson's pay. As of October 21, 1978, a balance of \$1,621.64 remained due and is hereby reported, as requested by your Department, so that the action specified in 5 U.S.C. § 5512(b) may be instituted.

As our previous letter indicated, we sent copies of pertinent documents from our files to the United States Attorney's Office in Lexington, Kentucky. In the event further material from our files is needed, or if we can be of further assistance, the attorney in our Office assigned to the case is Mr. Abel Lopez, telephone 275-5544.

Sincerely yours,

MILTON SOCOLAR

Milton J. Socolar
General Counsel

Enclosures