

No. 24-320

In the Supreme Court of the United States

SIMON A. SOTO, INDIVIDUALLY AND ON BEHALF OF ALL
OTHERS SIMILARLY SITUATED, PETITIONER

v.

UNITED STATES OF AMERICA

*ON PETITION FOR A WRIT OF CERTIORARI
TO THE UNITED STATES COURT OF APPEALS
FOR THE FEDERAL CIRCUIT*

BRIEF FOR THE UNITED STATES IN OPPOSITION

ELIZABETH B. PRELOGAR

Solicitor General

Counsel of Record

BRIAN M. BOYNTON

Principal Deputy Assistant

Attorney General

CHARLES W. SCARBOROUGH

JENNIFER L. UTRECHT

Attorneys

Department of Justice

Washington, D.C. 20530-0001

SupremeCtBriefs@usdoj.gov

(202) 514-2217

QUESTION PRESENTED

Through 31 U.S.C. 3702, known as the Barring Act, Congress created a comprehensive administrative claims-settlement process for all claims against the United States whose settlement is not covered by other laws. In this context, the term “settle” means to make a final administrative determination regarding the government’s total liability on a claim. See *Illinois Sur. Co. v. United States*, 240 U.S. 214, 219 (1916). The Barring Act specifies which officials are authorized to settle the accounts of federal employees and when such claims must be presented. As relevant here, the Act authorizes the Secretary of Defense to settle all claims “involving uniformed service members’ pay, allowances, travel, transportation, payments for unused accrued leave, retired pay, and survivor benefits.” 31 U.S.C. 3702(a)(1)(A). That authority is subject to a six-year time limit for submitting claims, 31 U.S.C. 3702(b)(1), which the Secretary may waive for claims that do not exceed \$25,000, 31 U.S.C. 3702(e)(1) and (3).

At issue in this case are claims for allegedly unpaid combat-related special compensation (CRSC), which is a compensation available only to retired uniformed service members with combat-related disabilities who elect benefits under 10 U.S.C. 1413a (2018 & Supp. IV 2022). The Department of Defense has exercised its authority under the Barring Act to settle petitioner’s claims for retroactive payment of CRSC, subject to a six-year payment cap in light of the Barring Act’s claim-submission deadline. The question presented is as follows:

Whether 10 U.S.C. 1413a displaces the settlement procedures and limitations set forth in the Barring Act.

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OPINIONS BELOW

The opinion of the court of appeals (Pet. App. 1a-19a) is reported at 92 F.4th 1094. The order of the district court (Pet. App. 32a-37a) is available at 2021 WL 7286022. A prior order of the district court (Pet. App. 21a-31a) is unreported.

JURISDICTION

The judgment of the court of appeals (Pet. App. 20a) was entered on February 12, 2024. A petition for rehearing was denied on June 20, 2024 (Pet. App. 40a-41a). The petition for a writ of certiorari was filed on September 18, 2024. The jurisdiction of this Court is invoked under 28 U.S.C. 1254(1).

STATEMENT

1. The Barring Act, 31 U.S.C. 3702, provides a comprehensive remedy for the settlement of claims “of or

against the United States” except where that law is superseded by another, more specific claims-settlement statute. 31 U.S.C. 3702(a); see 3 Office of the Gen. Counsel, U.S. Gen. Accounting Office (GAO), GAO-08-978SP, *Principles of Federal Appropriations Law* 14-23 to 14-28 (3d ed., rev. vol. 2016) (GAO Red Book). The term “settle” in this context means to make a final administrative determination regarding the government’s total liability on a claim—that is, to determine the specific amount owed to an individual under the terms of federal contracts or statutory provisions, including any applicable adjustments and offsets. See *Illinois Sur. Co. v. United States*, 240 U.S. 214, 219 (1916). As originally enacted, the settlement authority conferred by the Barring Act “was not only comprehensive but exclusive,” so that all claims and accounts concerning the United States would be “settled and adjusted in the Treasury Department.” GAO Red Book 14-23 (quoting Act of Mar. 3, 1817, ch. 45, § 2, 3 Stat. 366). Since then, Congress has enacted several amendments to this broad grant of settlement authority. Three of those amendments are relevant here.

First, Congress has amended the Barring Act to transfer claims-settlement responsibility from the Treasury Department to various other agencies, depending on the nature of the claim involved. See 31 U.S.C. 3702(a)(1)-(4); see generally GAO Red Book 14-23 to 14-24 (detailing the history of such transfers).

Second, Congress established a six-year deadline for the submission of claims falling within the Barring Act’s scope. See GAO Act of 1974, Pub. L. No. 93-604, § 801, 88 Stat. 1965. That amendment conformed the Barring Act “to the 6-year limitation period applicable to judicial actions on claims against the United States under 28

U.S.C. §§ 2401 and 2501,” and the amendment’s legislative history “noted that ‘[t]his will make the time limitation consistent with the Statute of Limitations now applicable to claims filed in administrative agencies and the courts.’” *In re Joseph M. Ford*, 73 Comp. Gen. 157, 161 (1994) (quoting S. Rep. No. 1314, 93d Cong., 2d Sess. 5-6 (1974)) (brackets in original).¹ Agencies are not permitted to waive or extend this six-year statute of limitations except where a statute expressly authorizes that step. See GAO Red Book 14-28 to 14-29.

Third, the Barring Act’s administrative claims-settlement authority is no longer exclusive. Over the years, Congress has enacted various laws that expressly authorize specific agencies to settle certain claims that arise out of the agency’s operations, and those specific claims-settlement procedures supersede the Barring Act’s generally applicable provisions. See GAO Red Book 14-21 to 14-23 (listing statutes that permit agencies to settle claims administratively). The Barring Act’s directive regarding who has final authority to settle claims of or against the United States, and when those claims must be presented, are thus provisions of general applicability that govern “[e]xcept as provided in this chapter or another law.” 31 U.S.C. 3702(a).

As relevant here, the Barring Act vests in the Secretary of Defense the authority to settle all claims “involving uniformed service members’ pay, allowances, travel, transportation, payments for unused accrued leave, retired pay, and survivor benefits.” 31 U.S.C. 3702(a)(1)(A).²

¹ Before the 1974 amendment, the Barring Act’s statute of limitations was ten years. See *Ford*, 73 Comp. Gen. at 161.

² See 31 U.S.C. 3702(a)(2) (similarly delegating to the Office of Personnel Management the authority to settle claims involving

Such claims must be presented “within 6 years after the claim accrues,” however, subject to enumerated exceptions. 31 U.S.C. 3702(b)(1). The Secretary of Defense can waive the statute of limitations for claims involving service members’ compensation that do not exceed \$25,000. 31 U.S.C. 3702(e)(1) and (3).

2. The dispute in this case concerns whether the Barring Act’s statute of limitations applies to claims for unpaid “combat-related special compensation” (CRSC). Generally speaking, retired members of the uniformed services who are entitled to both military retired pay from the Department of Defense and disability compensation from the Department of Veterans Affairs (VA) may not lawfully receive the full amount of both their retired pay and their disability compensation. 38 U.S.C. 5304, 5305. Instead, retired service members who wish to receive disability compensation are generally required to waive a portion of their military retired pay in an amount equal to the amount of disability compensation they receive. 38 U.S.C. 5305; but see 10 U.S.C. 1414. Retired service members who can establish that their compensable disability is directly attributable to a “combat-related” event, however, can receive additional compensation up to the amount of their waived retired pay. 10 U.S.C. 1413a (2018 & Supp. IV 2022).

Originally, this substantive entitlement to CRSC was payable only to individuals who had completed at least 20 years of military service. See 10 U.S.C. 1413a (2006). But effective January 1, 2008, retirees with fewer than 20 years of military service are eligible for CRSC if they were medically retired under 10 U.S.C.

federal civilian employees’ compensation); 31 U.S.C. 3702(a)(4) (providing that the Office of Management and Budget has the authority to settle all claims not delegated elsewhere).

1201-1222. National Defense Authorization Act for Fiscal Year 2008, Pub. L. No. 110-181, Div. A, Tit. VI, § 641, 122 Stat. 156; 10 U.S.C. 1413a(b)(3)(B).

The statute that authorizes CRSC, 10 U.S.C. 1413a, states that “[t]he Secretary concerned shall pay to each eligible combat-related disabled uniformed services retiree who elects benefits under this section a monthly amount for the combat-related disability of the retiree.” 10 U.S.C. 1413a(a). Section 1413a further provides that the Secretary of Defense “shall prescribe procedures and criteria under which a disabled uniformed services retiree may apply” to be considered “an eligible combat-related disabled uniformed services retiree” and elect benefits. 10 U.S.C. 1413a(d).

Those procedures, which are set forth in various regulations and program guidance, specify that a retired service member must first elect to receive CRSC. See 7B U.S. Dep’t of Def., DoD 7000.14-R, *Financial Management Regulation*, Ch. 63, at 63-5 to 63-6 (June 2024). The appropriate military department will then determine whether the service member is eligible, which generally requires being in retired status and having a service-connected disability that is rated by the VA as at least 10% disabling. See *id.* at 63-6 to 63-9, 63-19. The military department will also determine whether one or more of the applicant’s disabilities are directly attributable to a combat-related event. See *id.* at 63-19. If those criteria are satisfied, the service member will be found eligible for CRSC, and his or her application will be forwarded to the Defense Finance and Accounting Service for payment. See *ibid.*

3. a. Petitioner Simon Soto is a retired member of the United States Marine Corps with a combat-related disability rated at least 10% disabling. Pet. App. 4a. In

April 2006 petitioner was medically retired from active duty with less than 20 years of military service. *Ibid.* Although he met the eligibility criteria for CRSC as of June 2009—when he received his disability rating from the VA—he did not apply and elect to receive CRSC until seven years later, in June 2016. *Ibid.*

In October 2016, the Navy determined that petitioner’s disability was combat-related and that he was entitled to CRSC payments for the months following his June 2016 application and election. Pet. App. 22a. The Navy also informed petitioner that, even for the period before June 2016, petitioner could receive retroactive CRSC payments for months in which he met the eligibility criteria, but that those payments would be limited by the Barring Act’s six-year statute of limitations. *Ibid.* Petitioner did not request a waiver pursuant to 31 U.S.C. 3702(e)(1) of the six-year time limit. Pet. App. 4a. As a result, petitioner received six years of retroactive CRSC payments covering the period from July 2010 to June 2016. *Ibid.*

b. In March 2017, petitioner filed a class-action suit in the United States District Court for the Southern District of Texas under 28 U.S.C. 1346(a)(2) (the Little Tucker Act), contending that the Barring Act’s six-year statute of limitations does not apply to claims for CRSC. Pet. App. 4a. Petitioner further argued that no other limitations period was applicable and that he was therefore entitled to retroactive payments dating back to January 1, 2008—the effective date of the statute in which Congress expanded CRSC eligibility, see p. 4, *supra*—rather than July 2010. Pet. App. 4a.

The government moved for judgment on the pleadings. The district court denied the motion, holding that the CRSC-authorization statute, Section 1413a, is a

“specific” statute that supersedes the generally applicable terms of the Barring Act. D. Ct. Doc. 39, at 5 (Aug. 31, 2017) (citation omitted). The court subsequently certified a class of all “[f]ormer service members of the United States Army, Navy, Marine Corps, Air Force, or Coast Guard * * * whose amount of CRSC payment was limited by” the Barring Act’s six-year statute of limitations and who have “claim[s] of less than \$10,000.” Pet. App. 31a; see *id.* at 21a-31a. The court then granted summary judgment for the plaintiffs, reiterating its prior view that Section 1413a contains its own “settlement mechanism.” *Id.* at 35a; see *id.* at 32a-37a. In support of that conclusion, the court stated that Section 1413a “defines eligibility for CRSC, helps explain the amount of benefits and instructs the Secretary of Defense to prescribe procedures and criteria for individuals to apply for CRSC.” *Id.* at 35a-36a.

c. The court of appeals reversed. Pet. App. 1a-19a. The court explained that Section 1413a establishes “who may be *eligible* for CRSC payments,” not how claimants can have claims for unpaid compensation determined and settled. *Id.* at 7a. The court observed that—unlike other statutes that displace the Barring Act—Section 1413a does not contain “specific language authorizing the Secretary of Defense to *settle* a claim” for unpaid compensation,” which the court noted “will typically be done by use of the term ‘settle.’” *Ibid.*; see *id.* at 6a-7a. The court further observed that Section 1413a does not contain a “‘specific’ provision setting out the period of recovery.” *Id.* at 7a. Having determined that “[t]he CRSC statute lacks the sort of clear language authorizing the Secretary to settle CRSC claims sufficient for an exception to the Barring Act,” the court of appeals held that Section 1413a does not displace the Act’s

generally applicable claims-settlement procedures, including its six-year statute of limitations. *Id.* at 8a.

Judge Reyna dissented. He would have held that Section 1413a displaces the Barring Act because Section 1413a defines which retirees are eligible for CRSC payments and specifies the monthly amount that shall be paid to those retirees. Pet. App. 12a-19a.

ARGUMENT

The court of appeals held that the Secretary of Defense’s authority to settle claims for unpaid amounts of CRSC—like the Secretary’s authority to settle claims for other forms of military pay and benefits—is subject to the Barring Act’s six-year statute of limitations. That decision is correct and does not conflict with any decision of this Court or of another court of appeals. The petition for a writ of certiorari should be denied.

1. Petitioner contends (Pet. 15-16) that 10 U.S.C. 1413a (which authorizes the payment of CRSC) is “another law” that displaces the Barring Act, 31 U.S.C. 3702(a), and that the Secretary therefore may settle claims for unpaid retroactive CRSC without regard to the Barring Act’s six-year statute of limitations. The court of appeals correctly rejected that argument. Nothing in the text of Section 1413a or any other provision of law supersedes the six-year limit that the Barring Act imposes on the Secretary of Defense’s authority to settle claims for unpaid military compensation.

When Congress has elected to displace the Barring Act’s generally applicable settlement procedures or the Act’s statute of limitations, it has done so expressly. See Pet. App. 6a-7a. Under the Federal Tort Claims Act, 28 U.S.C. 2671 *et seq.*, for example, the authority to administratively “settle” a tort claim belongs to the agency from whose operations the claim arose, subject

to a two-year statute of limitations. 28 U.S.C. 2672; see 28 U.S.C. 2401(b); see also 10 U.S.C. 2733 (2018 & Supp. IV 2022) (authorizing the Secretary of Defense to “settle” certain tort claims arising under the Military Claims Act, 10 U.S.C. 2731 *et seq.*, subject to a two-year statute of limitations); 39 U.S.C. 401(8) (authorizing the United States Postal Service to “settle” claims that arise out of its operations). Such express grants of settlement authority and specific limitations periods render the Barring Act’s conflicting provisions inapplicable. See GAO Red Book 14-21 to 14-23 (listing other statutes).

By contrast, the statute that authorizes CRSC “conveys no [settlement] authority.” Pet. App. 7a. That statute defines which individuals are eligible to elect CRSC payments, 10 U.S.C. 1413a(a), (c), and (e), and specifies the monthly amount they may receive, 10 U.S.C. 1413a(b). But the statute contains no language that is naturally understood to create an administrative process to settle claims for unpaid amounts, or any provision that otherwise conflicts with the Barring Act’s conferral of settlement authority or its six-year statute of limitations. The statute does not, for example, specify when claims for unpaid CRSC must be submitted or who is authorized to make a final determination regarding the total amount for which the United States is liable. Indeed, the words “settle” and “claim” do not appear in Section 1413a.

Petitioner nevertheless argues (Pet. 16) that Section 1413a conveys freestanding settlement authority. Petitioner draws that inference from the statutory provisions that require the Secretary to create procedures and criteria to determine whether a disabled uniformed services retiree is “considered to be an eligible combat-

related disabled uniformed services retiree,” 10 U.S.C. 1413a(d), and that direct the Secretary to make a specific type of monthly payment to eligible individuals who elect that benefit, 10 U.S.C. 1413a(a).³ But those provisions “establish a veteran’s *substantive* right to CRSC and authorize its payment,” Pet. App. 8a; they do not address “*how* eligible claims may be settled,” *id.* at 7a (emphasis added). As with other forms of military compensation, the Secretary’s authority to make a final administrative determination about the government’s total liability to individuals who submit claims for unpaid amounts of CRSC arises out of the Barring Act, subject to that law’s terms and limitations. See GAO Red Book 14-26 (explaining that the Barring Act provides “the procedural authority to settle claims administratively” whenever the “substantive criteria upon which” the claim is based are specified by another provision of law).

Petitioner’s view that Section 1413a implicitly includes its own settlement mechanism for unpaid claims would render Section 3702(a)(1)(A)—the Barring Act provision that grants the Secretary of Defense settlement authority over “claims involving” specific kinds of “uniformed service members’ pay” and other benefits—a virtual nullity. 31 U.S.C. 3702(a)(1)(A). Because Section 3702(a)(1)(A) does not itself establish substantive criteria for determining whether particular service members are entitled to payment, *every* form of military “pay, allowances, travel, transportation, payments

³ Petitioner also notes (Pet. 16) that 10 U.S.C. 1413a(h) (Supp. IV 2022) identifies the appropriated funds that may be used to pay CRSC. But he does not explain why this specification of the source of funding would displace the Barring Act’s settlement mechanisms and corresponding six-year statute of limitations for claims involving unpaid amounts.

for unused accrued leave, retired pay, and survivor benefits,” 31 U.S.C. 3702(a)(1)(A), depends on *other* statutory provisions that, like Section 1413a, specify who is eligible for compensation and in what amount. See, *e.g.*, 10 U.S.C. 1401, 12731, and 12739 (2018 & Supp. IV 2022) (retired pay); 10 U.S.C. 1448, 1451 (2018 & Supp. IV 2022) (survivor annuities); 37 U.S.C. 204 (basic pay); 37 U.S.C. 302-308 (special pay). If these commonplace features of statutes that establish substantive rights to payment displaced the Barring Act’s settlement procedures, those procedures would almost never apply to claims involving unpaid amounts of military compensation.

The Barring Act’s statute of limitations was originally enacted to address the recognized problem of stale claims submitted by veterans and federal employees seeking back pay or allowances “not infrequently from 10 to 25 years after the rights of the claimants arose,” and occasionally “50 to 100 years after they first accrued.” S. Rep. No. 1338, 76th Cong., 3d Sess. 2 (1940). Reports accompanying the legislation noted the significant costs associated with evaluating such stale claims, most of which lacked merit. See *id.* at 2-3; H.R. Rep. No. 1541, 76th Cong., 3d Sess. 2 (1940) (1940 House Report). Because the attendant effort was “so great as to make it prejudicial to the interests of the United States,” 1940 House Report 2, Congress has barred consideration of claims that are not timely submitted, unless an exception applies or a statute provides otherwise. But under petitioner’s view that the CRSC statute contains its own settlement mechanism but no temporal limit on claims, disabled uniform service retirees who believe that the Department of Defense has miscalculated or missed a prior CRSC payment could wait

indefinitely before alerting the Department to its purported error. Petitioner identifies no basis for distinguishing the CRSC statute from the provisions that govern other forms of military compensation, or for reconciling his view of the law with Congress's intent in enacting the Barring Act.

2. The question presented does not meet this Court's criteria for certiorari. See Sup. Ct. R. 10.

a. Contrary to petitioner's characterization (Pet. 15-16), the court of appeals' decision is fully consistent with this Court's understanding of the term "settlement" in *Illinois Surety Co. v. United States*, 240 U.S. 214 (1916). See *id.* at 219 (defining "settlement" to mean "administrative determination of the amount due"). The court of appeals here acknowledged that, in the context of public transactions and accounts, the term "settlement" refers to the authority to "'administratively determine the validity of [a] claim'" and make a final determination of the amount of the government's liability to the claimant. Pet. App. 3a n.1 (citation omitted).

Applying that definition and using ordinary tools of statutory construction, the court of appeals concluded that, while Section 1413a directs the Secretary of Defense to *pay* CRSC to eligible individuals who elect that benefit, it "do[es] not authorize the Secretary to 'administratively determine the validity' of a claim" for unpaid funds. Pet. App. 8a (citation omitted). To the extent that *Illinois Surety* is relevant here, it supports the distinction the panel drew between those two concepts. The *Illinois Surety* Court observed that the "pivotal words" in the statute at issue were "not 'final payment,' but 'final settlement' and in view of the significance of the latter term in administrative practice, it is hardly likely that it would have been used had it been intended

to denote payment.” 240 U.S. at 218-219; see Pet. App. 7a. The court of appeals’ determination—which was based on the specific language of Section 1413a, a provision that was not at issue in *Illinois Surety*—does not conflict with the holding or reasoning of that decision.

b. The decision below also does not conflict with any decision of another court of appeals. Cf. Pet. 17. Petitioner argues (Pet. 12-15) that this Court’s review is warranted because the court of appeals’ analysis may require agencies to reassess other statutory delegations of claims-settlement authority. But petitioner’s speculation that agencies will have to reconsider prior decisions involving unrelated statutes is unfounded. Indeed, although petitioner contends that the decision below will cause a “sea change” (Pet. 13), he identifies only two agency decisions that he believes are inconsistent with it. Nothing in those decisions is inconsistent with the court of appeals’ interpretation of Section 1413a.

Petitioner first relies (Pet. 13) upon the decision of the Merit Systems Protection Board (MSPB) in *Lee v. Department of Justice*, 99 M.S.P.R. 256 (2005), in which the MSPB held that it has authority to order back pay as compensation for violations of the Uniformed Services Employment and Reemployment Rights Act of 1994 (USERRA), 38 U.S.C. 4301 *et seq.* The MSPB reached that conclusion based on USERRA’s language “specifically authoriz[ing]” the MSPB “to order compensation for ‘any loss of wages or benefits’ resulting from any USERRA violation that occurred on or after” USERRA’s effective date. *Lee*, 99 M.S.P.R. at 265 (quoting 38 U.S.C. 4324(c)). The MSPB further concluded that this express authority to award back pay was not limited by either the Barring Act or the six-year limitation on recovery in the Back Pay Act of 1966,

5 U.S.C. 5596(b)(4), because the MSPB has “exclusive” jurisdiction under 38 U.S.C. 4324(c) to adjudicate USERRA claims without regard to when a particular claim accrued. *Lee*, 99 M.S.P.R. at 265; see *id.* at 265-266, 268; see also *Hernandez v. Department of the Air Force*, 498 F.3d 1328, 1331 & n.1 (Fed. Cir. 2007) (stating that USERRA claims are “governed exclusively” by USERRA’s specific directive that the MSPB may adjudicate such claims “without regard as to” whether they accrued before or after USERRA’s effective date) (citation omitted). But as the court of appeals here recognized, Section 1413a contains no equivalent back pay, jurisdictional, or timing provisions. See Pet. App. 7a.⁴

The court of appeals’ analysis is also fully consistent with the assessment of the Office of Personnel Management (OPM) of the claim in File No. S001855.2, 1999 OPM Dec. LEXIS 338 (June 16, 1999) (see Pet. 13). In that instance, an individual who had previously been employed as a police officer at an unnamed agency filed a claim with OPM challenging the lawfulness of the expiration of his temporary appointment. *Id.* at *1. OPM dismissed that claim for lack of jurisdiction, noting that challenges to the lawfulness of a separation under the Civil Service Reform Act of 1978 must be presented to the employing agency, subject to appeal before the MSPB. *Id.* at *2 (citing 5 U.S.C. 7513). In other words, a separate statute dictated a process for resolving a

⁴ Petitioner contends (Pet. 13 n.2) that he relies on *Lee* only for that decision’s discussion of the Back Pay Act. His point is unclear. In the portion of *Lee* that petitioner cites, the MSPB assessed its remedial authority under USERRA. See 99 M.S.P.R. at 265. The MSPB then held that the Back Pay Act, with its attendant “6-year limitation on recovery,” also “does not control the remedy in a USERRA case.” *Lee*, 99 M.S.P.R. at 268-269.

particular kind of claim, and OPM concluded that this conflicting provision displaced OPM's authority to render a final determination under the Barring Act, 31 U.S.C. 3702(a). But petitioner identifies no comparable language in Section 1413a.

Petitioner's reliance (Pet. 13-14) on 10 U.S.C. 7712 is similarly unavailing. Petitioner identifies no judicial or agency decision supporting his view that this statute—which generally addresses how to treat proceeds of the effects of persons who die in locations under Army jurisdiction—gives the Department of Defense free-standing settlement authority apart from the Barring Act. Like Section 1413a, Section 7712 does not expressly confer authority to “settle” and does not reference “claims” of any kind.

Petitioner notes (Pet. 13) that a prior version of the statute directed the Army to “make a full report of the transactions under this section * * * for transmission to the General Accounting Office for action authorized in the settlement of accounts of deceased members of the Army.” 10 U.S.C. 4712(g) (1994). But that merely reflects the fact that the Comptroller General of the GAO previously had authority to settle all claims against the United States, including the authority to settle the final accounts of deceased military personnel. See 31 U.S.C. 3702(a) (1994); GAO Red Book 14-23 (explaining that the Barring Act's claims-settlement function was transferred from the Treasury Department to the GAO in 1921); see also 10 U.S.C. 2771(a) (designating the individuals who shall be paid as part of the “settlement” of the accounts of deceased service members). Congress struck that subsection after it transferred the GAO's settlement functions to the Office of Management and Budget (OMB). See Legislative Branch

Appropriations Act, 1996, Pub. L. No. 104-53, Tit. II, § 211(a) and (b), 109 Stat. 535; GAO Act of 1996, Pub. L. No. 104-316, § 202(g), 110 Stat. 3842.

In any event, OMB has delegated to the Department of Defense the authority to settle the final accounts of deceased service members. See OMB, *Determination with Respect to Transfer of Functions Pursuant to Public Law 104-53*, Attach. A (June 28, 1996); see also *In re Transfer of Claims Settlement and Related Advance Decisions, Waivers, and Other Functions*, 97-1 Comp. Gen. Proc. Dec. P123, 1997 U.S. Comp. Gen. Lexis 300, at *9 (Mar. 17, 1997). There is accordingly no doubt that the Department of Defense has authority to settle claims involving such accounts, subject to a six-year statute of limitations. See 32 C.F.R. Pt. 282, App. C, Subsec. (f)(1)(ii) (“Claims under 31 U.S.C. 3702(b), 10 U.S.C. 2771 and 32 U.S.C. 714 must be received within 6 years of the date the claim accrued.”). Petitioner identifies nothing in those established procedures that will need to be revisited in light of the court of appeals’ analysis of Section 1413a.

c. Finally, petitioner significantly overstates (Pet. 10-12) the practical effects of the decision below. As the court of appeals noted, “veterans will receive the benefits they are owed unless [the benefits] accrued outside of the Barring Act’s six-year period of recovery.” 92 F.4th 1094, 1101 n.4.⁵ And even for those retired service members whose claims for payment fall outside the limitations period, the Barring Act permits the Secretary to waive the time limitation for claims that do not exceed \$25,000 if the service member requests such a waiver. *Ibid.* (citing 31 U.S.C. 3702(e)); see 32 C.F.R.

⁵ The petition appendix omits this portion of the court of appeals’ decision.

Pt. 282, App. D, Subsec. (d) (setting forth the process for requesting a waiver). All of the class members here are eligible for waivers under that provision, since the Little Tucker Act's amount-in-controversy limit, see 28 U.S.C. 1346(a)(2), restricts the class to persons with claims for less than \$10,000.

CONCLUSION

The petition for a writ of certiorari should be denied.

Respectfully submitted.

ELIZABETH B. PRELOGAR

Solicitor General

BRIAN M. BOYNTON

Principal Deputy Assistant

Attorney General

CHARLES W. SCARBOROUGH

JENNIFER L. UTRECHT

Attorneys

NOVEMBER 2024