

UNITED STATES DISTRICT COURT FOR THE WESTERN DISTRICT OF NEW YORK

Mark M. v. Commissioner of Social Security

Mark M. · No. 1:23-cv-1251-JJM · Decided April 8, 2026

SUMMARY

The court approved a stipulated award of \$6,384.17 in attorney’s fees under the Equal Access to Justice Act and \$405.00 in costs after remanding the plaintiff’s Social Security benefits claim for further proceedings. The fees are payable to plaintiff’s counsel if the plaintiff provides a valid assignment and the government does not apply the Anti-Assignment Act.

CASE DETAILS

COURT	United States District Court for the Western District of New York
WRITING FOR THE COURT	Jeremiah J. McCarthy
JURISDICTION	United States District Court for the Western District of New York
DECIDED	April 8, 2026
DOCKET	1:23-cv-1251-JJM
DISPOSITION	approved
PROCEDURAL POSTURE	After obtaining a remand in a Social Security benefits action, plaintiff moved for attorney's fees and costs under the Equal Access to Justice Act based on a stipulated amount.
STANDARD OF REVIEW	The court independently reviewed whether the stipulated EAJA fee amount was reasonable and whether the statutory prerequisites for an award were satisfied.
PRECEDENTIAL VALUE	unpublished district court decision
PARTIES	Mark M. v. Commissioner of Social Security

TOPICS

- attorney fees
- costs
- judicial review of agency action
- administrative law
- civil procedure

PRACTICE AREAS

- administrative law
- Social Security
- attorney fees
- costs
- civil procedure

QUESTIONS PRESENTED

1. Whether plaintiff was a prevailing party eligible for an EAJA award after obtaining a remand of the Social Security benefits action.
2. Whether the government's position was substantially justified or special circumstances made an EAJA award unjust.
3. Whether the stipulated attorney's fee amount and documented hours were reasonable.
4. Whether the EAJA fees could be paid to plaintiff's counsel pursuant to an assignment, subject to federal-debt offset and the Anti-Assignment Act.

HOLDINGS

1. A plaintiff who obtains a remand under the circumstances presented is a prevailing party for purposes of the EAJA.
2. A stipulation between the parties does not relieve the court of its obligation to determine whether an EAJA fee amount is reasonable.
3. An EAJA award was warranted because the government did not establish that its position was substantially justified and the court found no special circumstances making an award unjust.
4. The stipulated attorney's fee of \$6,384.17, reflecting an effective hourly rate of \$251.35 for 25.4 hours, was reasonable and could be approved.
5. The award was payable to plaintiff's counsel if counsel provided a valid assignment and the applicable federal-debt-offset and Anti-Assignment Act conditions were satisfied; otherwise, the award was payable to plaintiff but delivered to counsel.

KEY QUOTATIONS

“The fact that the parties have stipulated to an amount does not relieve this court of the obligation to determine whether that amount is reasonable.”

“Therefore, I find no reason to second guess the fee amount to which the parties have stipulated.”

FACTUAL BACKGROUND

Plaintiff challenged the Commissioner's denial of Social Security benefits and obtained a remand after the court granted judgment on the pleadings. Plaintiff then sought \$6,384.17 in EAJA attorney's fees and \$405.00 in costs. The stipulated fee represented an effective hourly rate of \$251.35 based on 25.4 hours of documented work.

PROCEDURAL HISTORY

Plaintiff commenced the action on December 4, 2023, challenging the Commissioner's denial of Social Security benefits. On March 30, 2026, the court granted plaintiff's motion for judgment on the pleadings and remanded the case to the Commissioner for further proceedings. After judgment was entered, plaintiff sought \$6,384.17 in attorney's fees and \$405.00 in costs under the EAJA. The court approved the stipulated award, subject to the assignment and federal-debt-offset conditions described in the order.

DISPOSITION

approved

CASES CITED

- Shalala v. Schaefer, 509 U.S. 292, 300-02 (1993)
- Pribek v. Secretary, Department of Health & Human Services, 717 F. Supp. 73, 75 (W.D.N.Y. 1989)
- Lockwood v. Colvin, 2016 WL 6902341, at *1 (D. Conn. 2016)
- Eames v. Bowen, 864 F.2d 251, 252 (2d Cir. 1988)
- Isaacs v. Astrue, 2009 WL 1748706, at *3 (W.D.N.Y. 2009)
- Astrue v. Ratliff, 560 U.S. 586, 594 (2010)
- Kerr for Kerr v. Commissioner of Social Security, 874 F.3d 926, 937 (6th Cir. 2017)

OPINION

UNITED STATES DISTRICT COURT WESTERN DISTRICT OF NEW YORK

MARK M.,¹ DECISION AND ORDER Plaintiff,
1:23-cv-1251-JJM v. COMMISSIONER OF SOCIAL SECURITY, Defendant.

Plaintiff commenced this action on December 4, 2023, arguing that the Commissioner’s denial of his claim for Social Security benefits was not supported by substantial evidence and was contrary to law.

Complaint [1].² On March 30, 2026, I granted plaintiff’s motion for judgment on the pleadings and remanded the case to the Commissioner for further proceedings consistent with my Decision and Order [18]. Following the entry of a Judgment [19], plaintiff filed a stipulation and a motion for an award of attorney’s fees in the amount of \$6,384.17 under the Equal Access to Justice Act (“EAJA”), 28 U.S.C. §2412, plus costs in the amount of \$405.00.

[20, 22]. 1 In accordance with the guidance from the Committee on Court Administration and Case Management of the Judicial Conference of the United States, which was adopted by the Western District of New York on November 18, 2020 in order to better protect personal and medical information of non- governmental parties, this Decision and Order will identify the plaintiff by first name and last initial.

2 Bracketed references are to CM/ECF docket entries. Page references are to CM/ECF pagination (upper right corner of the page). ANALYSIS 28 U.S.C. §2412(b) authorizes an award of “reasonable fees and expenses of attorneys... to the prevailing party in any civil action brought by or against the United States or any agency or any official of the United States acting in his or her official capacity.” By obtaining a remand under the circumstances present in this case, plaintiff is the “prevailing party” for purposes of the EAJA.

Shalala v. Schaefer, 509 U.S. 292, 300-02 (1993). The fact that the parties have stipulated to an amount does not relieve this court of the obligation to determine whether that amount is reasonable. See *Pribek v. Secretary, Department of Health & Human Services*, 717 F. Supp. 73, 75 (W.D.N.Y. 1989) (“the determination of a reasonable fee under the EAJA is for the court rather than the parties by way of stipulation”); *Lockwood v. Colvin*, 2016 WL 6902341, *1 (D.

Conn. 2016) (“[a]lthough the parties have reached an agreement as to the appropriate award of fees in this matter, the Court is obligated to review the fee application and determine whether the proposed fee award is reasonable”). A fee award is appropriate “unless the court finds that the position of the United States was substantially justified or that special circumstances make an award unjust”.

28 U.S.C. §2412(d)(1)(A). “The burden is on the Government to show that its position was substantially justified.” *Eames v. Bowen*, 864 F.2d 251, 252 (2d Cir. 1988). The government has not attempted to satisfy that burden, nor do I find any “special circumstances” which would make an award unjust. 28 U.S.C. §2412(d)(2)(A) states that “attorney fees shall not be awarded in excess of \$125 per hour unless the court determines that an increase in the cost of living or a special factor, such as the limited availability of qualified attorneys for the proceedings involved, justifies a higher fee”.

The hourly rate may be adjusted to account for inflation as determined by the Consumer Price Index (“CPI”). See *Isaacs v. Astrue*, 2009 WL 1748706, *3 (W.D.N.Y. 2009) (“[t]he current statutory cap of \$125 per hour took effect in 1996... and the Court may revise it upward to reflect inflation as determined by the [CPI]”).

The stipulation provides plaintiff’s counsel fees at an effective hourly rate of \$251.35.3 This adjustment is appropriate. Moreover, I find the number of hours devoted to this case, as detailed in counsel’s motion ([22- 1]), to be reasonable.

Therefore, I find no reason to second guess the fee amount to which the parties have stipulated. In addition, the docket reflects that plaintiff paid a filing fee in the amount of \$405.00. See Docket Text 12/04/2023 (“\$405 receipt number ANYWDC-5045903”). Pursuant to the Stipulation, the “attorney fees may be paid to Plaintiff’s counsel if Plaintiff agrees to assign the fees to counsel, and provided that Plaintiff owes no debt to the Federal Government that is subject to offset under the U.S. Treasury Offset Program”.

Stipulation [13]. “EAJA fees are payable to litigants and are thus subject to offset where a litigant has outstanding federal debts.” *Astrue v. Ratliff*, 560 U.S. 586, 594 (2010). While fee awards under the EAJA are payable to the plaintiff, the plaintiff has the right to assign the EAJA fee award to his or her lawyer, and where the Commissioner does not oppose the assignment, it can be honored under the Anti-Assignment Act.

See Kerr for Kerr v. Commissioner of Social Security, 874 F.3d 926, 937 (6th Cir. 2017) (“[u]nless the government waives application of the [Anti-Assignment Act] in EAJA cases, fee awards must be paid to the prevailing party, not to the party’s lawyer”). 3 See CPI adjustment calculation.

[22] at 1-2. The effective hourly rate was calculated by dividing the stipulated fee (\$6,384.17) by the total number of hours (25.4) documented in plaintiff’s fee application. [22-1]. CONCLUSION The Stipulation [20] is approved as follows: the court awards plaintiff attorney’s fees in the amount of \$6,384.17 and costs in the amount of \$405.00 payable to plaintiff’s counsel if counsel provides Commissioner’s counsel with a valid assignment.

If counsel fails to provide a valid assignment, or the government declines to waive application of the Anti-Assignment Act, the award shall be payable to plaintiff, but delivered to plaintiff’s counsel. SO ORDERED. Dated: April 8, 2026 /s/ Jeremiah J. McCarthy JEREMIAH J. MCCARTHY United States Magistrate Judge