

UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF
CALIFORNIA

Janie Misak v. Commissioner of Social Security

Misak · No. 1:22-cv-01348-CDB (SS) · Decided December 19, 2025

OPINION

Janie Misak v. Commissioner of Social Security

PER CURIAM.

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UNITED STATES DISTRICT COURT

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EASTERN DISTRICT OF CALIFORNIA

10 11 JANIE MISAK, Case No. 1:22-cv-01348-CDB (SS) 12 Plaintiff, ORDER ON
STIPULATION FOR AWARD

OF ATTORNEY FEES PURSUANT TO

13 v. THE EQUAL ACCESS TO JUSTICE ACT,

28 U.S.C. § 2412(d)

14 COMMISSIONER OF SOCIAL SECURITY,

(Doc. 27) 15 Defendant. 16 17 Pending before the Court is the stipulated request of Plaintiff Janie Misak (“Plaintiff”) for the 18 award of attorney’s fees pursuant to the Equal Access to Justice Act (“EAJA”), 28 U.S.C. § 2412(d), 19 in the amount of \$7,500.00 to counsel for Plaintiff, Jonathan O. Peña.¹ (Doc. 27). 20 The parties agree that an award of attorney’s fees to counsel for Plaintiff should be made 21 payable to Plaintiff, but if the Department of the Treasury determines that Plaintiff does not owe a 22 federal debt, then the Commissioner shall cause the payment of fees, expenses, and costs to be made 23 directly to Plaintiff’s counsel, Jonathan O. Peña. Id. at 2. 24 On September 16, 2025, the Court granted Plaintiff’s motion for summary judgment and 25 remanded the action pursuant to sentence four of 42 U.S.C. § 405(g) to the Commissioner for further 26 proceedings. (Doc. 24). Judgment was entered the same day. (Doc. 25). On December 17, 2025, 27 1 Both parties have consented to the jurisdiction of a U.S. magistrate judge for all 1 Plaintiff filed the pending stipulation for attorney’s fees as a prevailing party. (Doc. 27). See 2 Shalala v. Schaefer, 509 U.S. 292, 300-02 (1993) (concluding that a party who wins a sentence-four 3 remand order under 42 U.S.C. § 405(g) is a prevailing party). Plaintiff’s filing is timely. Van v. 4 Barnhart, 483 F.3d 600, 607 (9th Cir. 2007). 5 The EAJA provides for an award of attorney fees to private litigants who both prevail in civil 6 actions (other than tort) against the United States and timely file a petition for fees. 28 U.S.C. § 7 2412(d)(1)(A). Under the EAJA, a court shall award attorney fees to the prevailing party unless it 8 finds the government’s position was “substantially

justified or that special circumstances make such 9 an award unjust.” Id. Here, the government did not show its position was substantially justified 10 and the Court finds there are not special circumstances that would make an award unjust. Moreover, 11 the Commissioner does not oppose the requested relief. (Doc. 27). See *Sanchez v. Berryhill*, No. 12 1:16-cv-01081-SKO, 2018 WL 509817, at *2 (E.D. Cal. Jan. 23, 2018) (finding position of the 13 government was not substantially justified in view of the Commissioner’s assent to remand); 14 *Knyazhina v. Colvin*, No. 2:12-cv-2726 DAD, 2014 WL 5324302, at *1 (E.D. Cal. Oct. 17, 2014) 15 (same). 16 Plaintiff requests an award of \$7,500.00 in EAJA fees as authorized by 28 U.S.C. § 2412(d). 17 (Doc. 27). The Ninth Circuit maintains a list of the statutory maximum hourly rates authorized by 18 the EAJA, adjusted for increases in the cost of living, on its website.² See *Thangaraja v. Gonzales*, 19 428 F.3d 870, 876-77 (9th Cir. 2005). Even assuming Plaintiff’s counsel seeks the median of the 20 published maximum rate associated with the years (2022 through 2023) during which he engaged 21 in services in this case (which the Court computes as \$239.79), the requested award would amount 22 to approximately 31 hours of attorney time (not accounting for any paralegal time expended). The 23 Court finds this reasonable and commensurate with the number of hours an attorney would need to 24 have spent reviewing the certified administrative record in this case (approximately 512 pages; Doc. 25 11) and preparing a motion for summary judgment that includes 15 pages of argument (Doc. 16 at 26 4-18) and a reply that includes three pages of argument (Doc. 20 at 2-4). With respect to the results 27 2 Statutory Maximum Rates Under the Equal Access to Justice, available at <https://www.ca9.uscourts.gov/attorneys/statutory-maximum-rates/> (last visited December 18, 1 | obtained, Plaintiffs counsel obtained a favorable judgment remanding the case for further 2 | proceedings. (Docs. 24, 25). 3 EAJA fees, expenses, and costs are subject to any offsets allowed under the Treasury Offset 4 | Program (“TOP”), as discussed in *Astrue v. Ratliff*, 560 U.S. 586 (2010). If the Commissioner 5 | determines upon effectuation of this order that Plaintiff’s EAJA fees are not subject to any offset 6 | allowed under the TOP, the fees shall be delivered or otherwise transmitted to Plaintiffs counsel. 7 Conclusion and Order 8 Accordingly, it is HEREBY ORDERED: 9 1. Plaintiffs stipulated request for attorney’s fees pursuant to the EAJA (Doc. 27) is 10 GRANTED; and 11 2. The Commissioner is directed to pay to Plaintiff as the prevailing party attorney’s fees in 12 the amount of \$7,500.00, pursuant to the terms set forth in the parties’ stipulation. (Doc. 13 27). Fees shall be made payable to Plaintiff, but if the Department of the Treasury 14 determines that Plaintiff does not owe a federal debt, then the government shall cause the 15 payment of fees, expenses, and costs to be made directly to Plaintiffs counsel, as set forth 16 in the stipulation. 17 [T IS SO ORDERED. 181 Dated: _ December 19, 2025 |) Ww v RY

19 UNITED STATES MAGISTRATE JUDGE

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