

was so clear that the Commissioner's position on this issue was not substantially justified. The MRI report did not clearly demonstrate that plaintiff suffered from nerve root entrapment to an extent that would have altered Dr. Fontana's opinion, nor that it rendered his pre-existing opinion untrustworthy.

Plaintiff also suggests that the court may have erred in not deciding plaintiff's second issue on the merits. "Before finding that the ALJ's position was [sic] supported by substantial evidence, the Plaintiff submits that the Court should have addressed all issues, including the inadequacy of the VE question." Doc. 37 at 3. However, plaintiff does not offer any argument of substance, either in his initial motion for EAJA fees, in his Reply brief on that motion, or in the instant motion to reconsider, concerning whether the Commissioner's position on this second issue was "substantially justified." Nor does plaintiff cite any authority that the court must—or even is authorized to—reopen the merits of the case after it has been remanded so as to reach this secondary issue.

Accordingly, for the foregoing reasons, it is hereby ORDERED that plaintiff's Motion to Amend is DENIED.

DONE this the 31st day of March, 2011.

/s/ Katherine P. Nelson
UNITED STATES MAGISTRATE JUDGE