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**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF ARIZONA**

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10	Regina Stancil,)	No. CV-06-2169-PHX-DGC
11	Plaintiff,)	ORDER
12	vs.)	
13	Michael J. Astrue, Commissioner of)	
14	Social Security Administration,)	
15	Defendant.)	

16 Plaintiff brought this action to obtain judicial review of Defendant’s denial of social
17 security benefits. Dkt. #1. On September 25, 2007, the Court issued an order and judgment
18 reversing Defendant’s administrative decision and remanding the case for an award of
19 benefits. Dkt. ##26-27. The Court subsequently denied Defendant’s motion for relief from
20 judgment. Dkt. #31.

21 Plaintiff has filed a motion for attorney’s fees and costs pursuant to the Equal Access
22 to Justice Act (“EAJA”), 28 U.S.C. § 2412. Dkt. #32. Defendant has filed no opposition to
23 the motion and the time for doing so has expired. *See* LRCiv 54.2(b)(3); Fed. R. Civ. P. 6(a).

24 Under the EAJA, the Court shall award attorney’s fees and costs to a prevailing party
25 unless the United States shows that its position was “substantially justified or that special
26 circumstances make an award unjust.” 28 U.S.C. § 2412(d)(1)(A); *see Gutierrez v. Barnhart*,
27 274 F.3d 1255, 1258 (9th Cir. 2001) (same); *Flores v. Shalala*, 49 F.3d 562, 567 (9th Cir.
28 1995) (“The EAJA creates a presumption that fees will be awarded to prevailing parties.”).

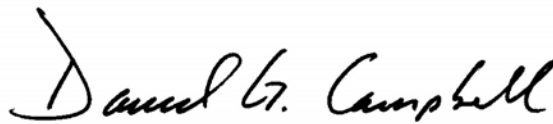
1 Plaintiff is a prevailing party because this matter was remanded pursuant to sentence four of
2 the Social Security Act, 42 U.S.C. § 405(g). *See* Dkt. ##1, 33; *see also* *Gutierrez*, 274 F.3d
3 at 1257 (“An applicant for disability benefits becomes a prevailing party for purposes of the
4 EAJA if the denial of her benefits is reversed and remanded regardless of whether disability
5 benefits ultimately are awarded.”); *Flores*, 49 F.3d at 567 (“If the district court enters
6 judgment reversing and remanding under sentence four, then the claimant must apply for fees
7 within 30 days of the date the judgment becomes final.”). By not opposing Plaintiff’s
8 motion, Defendant has not carried his burden of showing that his position in this case was
9 substantially justified or that special circumstances make an award of fees and costs unjust.
10 Plaintiff is thus entitled to an award under the EAJA. *See* 28 U.S.C. § 2412(d)(1)(A);
11 *Gutierrez*, 274 F.3d at 1257-58.

12 Plaintiff’s counsel, Stephanie Lake, has filed an affidavit and an itemized statement
13 of fees showing that she worked 29.5 hours on this case and that the fees and costs total
14 \$4,895.36. Dkt. ##32-2, 32-3. The Court finds that the requested award is reasonable.
15 The Court will grant Plaintiff’s motion and award her \$4,895.36 in fees and costs.

16 **IT IS ORDERED:**

- 17 1. Plaintiff’s motion for attorney’s fees and costs (Dkt. #32) is **granted**.
- 18 2. Plaintiff is awarded **\$4,895.36** in attorney’s fees and costs pursuant to the
19 Equal Access to Justice Act, 28 U.S.C. § 2412.
- 20 3. Defendant’s motion to strike Plaintiff’s motion for attorney’s fees and costs as
21 premature or, in the alternative, hold Plaintiff’s motion in abeyance (Dkt. #33)
22 is **denied** as moot.

23 DATED this 31st day of January, 2008.

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27 David G. Campbell
28 United States District Judge