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

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Martha L. Woody,

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No. CV-07-2164-PHX-DGC

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Plaintiff,

)

**ORDER**

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vs.

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Michael J. Astrue, Commissioner of the  
Social Security Administration,

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Defendant.

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Plaintiff brought this action to obtain judicial review of Defendant’s denial of social security benefits. Dkt. #1. In an order dated June 23, 2008 (Dkt. #20), the Court denied Plaintiff’s motion for summary judgment (Dkt. #13) and granted Defendant’s motion to remand for further proceedings (Dkt. #16). The Ninth Circuit reversed with instructions to remand for an award of benefits. Dkt. #29.

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Plaintiff has filed a motion for attorney’s fees pursuant to the Equal Access to Justice Act, 28 U.S.C. § 2412 (“EAJA”). Dkt. #32. Defendant has filed no response, and the time for doing so has expired. *See* LRCiv 7.2(c), 54.2(b)(3); Fed. R. Civ. P. 6(d).

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

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1 Security Act, 42 U.S.C. § 405(g). Dkt. ##1, 20; *see Gutierrez*, 274 F.3d at 1257 (“An  
2 applicant for disability benefits becomes a prevailing party for purposes of the EAJA if the  
3 denial of her benefits is reversed and remanded regardless of whether disability benefits  
4 ultimately are awarded.”). By not opposing Plaintiff’s motion, Defendant has not carried his  
5 burden of showing that his position in this case was substantially justified or that special  
6 circumstances make an award of fees unjust. Plaintiff is thus entitled to an award under the  
7 EAJA. *See* 28 U.S.C. 2412(d)(1)(A); *Gutierrez*, 274 F.3d at 1257-58.

8 Plaintiff’s counsel, Mark Caldwell, has filed an affidavit and an itemized statement  
9 of fees showing that he worked 61.7 hours on this case and that the fees total \$15,259.05.  
10 Dkt. #34. The Court finds the requested to be reasonable. *See* LRCiv 54.2(c)(3)(A)-(M)  
11 (listing factors bearing on the reasonableness of a fee award); *Hensley v. Eckerhart*, 461 U.S.  
12 424, 429-30 & n.3 (1983) (same). The Court will grant Plaintiff’s motion and award her  
13 \$15,259.05 in attorney’s fees.

14 **IT IS ORDERED:**

- 15 1. Plaintiff’s motion for attorney’s fees (Dkt. #32) is **granted**.
- 16 2. Plaintiff is awarded **\$15,259.05** in attorney’s fees pursuant to Equal Access to  
17 Justice Act, 28 U.S.C. § 2412.

18 DATED this 16th day of March, 2010.

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David G. Campbell  
United States District Judge