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6 IN THE UNITED STATES DISTRICT COURT
7 FOR THE DISTRICT OF ARIZONA

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9 Jerry Smith,

10 Plaintiff,

11 v.

12 Carolyn W. Colvin, Acting Commissioner
of the Social Security Administration,

13 Defendant.
14

No. CV-11-02524-PHX-DGC

ORDER

15 On February 27, 2013, the Court issued an order granting Plaintiff's motion for
16 attorneys' fees in the amount of \$7,945.46. Doc. 36. That amount was the original
17 amount Plaintiff requested in his motion. Doc. 31. Because the government opposed the
18 motion, Plaintiff was required to spend additional time researching and drafting a reply
19 brief. Doc. 35. In the reply, Plaintiff's counsel noted that he had spent an additional 4.4
20 hours in preparation and that he now requested the sum of \$9,217.26. Doc. 35 at 10. The
21 Court overlooked the additional request, and its failure to consider it was manifest error.
22 "Fees on fees" are permissible in the Ninth Circuit when the agency position is not
23 substantially justified. *Atkins v. Apfel*, 154 F.3d 986, 988-89 (9th Cir. 1998). The Court
24 found in its previous order that the Commissioner's position was not substantially
25 justified and that the requested fees were reasonable. The Court finds that the additional
26 time to prepare a reply brief is also reasonable.

27 **IT IS ORDERED** that Plaintiff's motion for reconsideration (Doc. 37) is
28 **granted**. The Court's previous order (Doc. 36) is amended to award Plaintiff attorney's

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fees in the amount of \$9,217.26.

Dated this 15th day of March, 2013.



David G. Campbell
United States District Judge