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IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF ARIZONA

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Johnny D. Amaro,

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No. CV-12-213-PHX-FJM

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Plaintiff,

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**ORDER**

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vs.

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Carolyn W. Colvin,

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Defendant.

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The court has before it plaintiff’s Motion for an award of attorney’s fees (doc. 29), the government’s Response (doc. 30), and plaintiff’s Reply (doc. 33).

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Plaintiff is entitled to fees only if the government’s position was not substantially justified. I have reviewed my Order of October 23, 2012 (doc. 18) and the panel’s Memorandum disposition of June 3, 2015 (doc. 26). Respectfully, I am not persuaded that the panel’s conclusions are more reasonable than my own. There is a responsible difference of opinion here. This is not uncommon in social security cases in this circuit.

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Being the prevailing party on appeal is not sufficient to warrant a fee award. Plaintiff must show that the government’s position was not substantially justified. Here, I am of the view that the government’s position was more than substantially justified.

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1           Accordingly, it is ORDERED DENYING the plaintiff's Motion for an award of  
2 attorney's fees. (Doc. 29).

3           DATED this 1<sup>st</sup> day of December, 2015.

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Frederick J. Martone  
Frederick J. Martone  
Senior United States District Judge