

**IN THE UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF ARKANSAS
WESTERN DIVISION**

SHUNDA SIMS

PLAINTIFF

V.

4:04CV00665 JMM/JTR

MICHAEL J. ASTRUE,
Commissioner, Social
Security Administration

DEFENDANT

PROPOSED FINDINGS AND RECOMMENDED DISPOSITION

INSTRUCTIONS

Pending before the Court is Plaintiff's Motion for Approval of Attorney's Fees (docket entry #36). Defendant has filed a Response (docket entry #37), and the matter has been referred to this Court for recommended disposition (docket entry #38). For the reasons set forth herein, the Court recommends that the Motion be granted.

On July 12, 2004, Plaintiff filed this action challenging the decision of an Administrative Law Judge ("ALJ") denying her social security benefits (docket entry #2). On February 4, 2009, the Court entered an Order and a Judgment (docket entries #34 and #35) that remanded the case to the ALJ pursuant to sentence four of 42 U.S.C. § 405(g) and *Buckner v. Apfel*, 213 F.3d 1006, 1010-11 (8th Cir. 2000).

On February 10, 2009, Plaintiff's attorney, Mr. James W. Stanley, Jr., filed a Motion for Approval of Attorney's Fees. (Docket entry #36.) In this Motion, Mr. Stanley seeks payment for 14.00 hours of work performed by him at the hourly rate of \$125.00 (\$1,750.00). The Commissioner does not contest Plaintiff's entitlement to an award of attorney's fees under the EAJA and asserts that he has no objection to the amount requested by Plaintiff's attorney

(docket entry #37).

Under the EAJA, a prevailing social security claimant is entitled to an award of reasonable attorney's fees unless the Commissioner's position in denying benefits was "substantially justified" or special circumstances make an award unjust. 28 U.S.C. § 2412(d)(1)(A). A claimant who wins a sentence four remand order, such as the one entered in this case (docket entry #34), is a prevailing party entitled to EAJA fees. *See Shalala v. Schaefer*, 509 U.S. 292, 302 (1993).

Under these circumstances, the Court concludes that Plaintiff is entitled to an award of attorney's fees under the EAJA and that the amount requested by Plaintiff's attorney is reasonable. Accordingly, the Court recommends that Plaintiff's attorney receive a total award of \$1,750.00 (14.00 hours of attorney time at the rate of \$125.00 per hour).

IT IS THEREFORE RECOMMENDED that Plaintiff's Motion for Approval of Attorney's Fees (docket entry #36) be GRANTED.

IT IS FURTHER RECOMMENDED that the Commissioner certify and pay to Mr. James W. Stanley, Jr., attorney for Plaintiff, \$1,750.00 as attorney's fees, pursuant to the EAJA.

DATED this 1st day of May, 2009.


UNITED STATES MAGISTRATE JUDGE