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UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

SAVUTH EM,

Plaintiff,

v.

MICHAEL J. ASTRUE,
Commissioner of Social Security,

Defendant.

) 1:10-cv-01414-LJO-SKO

) **ORDER THAT ANY SUPPLEMENTAL**
) **REQUESTS FOR EAJA FEES BE**
) **SUBMITTED WITHIN 20 DAYS**

Plaintiff filed an application for the award of EAJA fees in this case. (Doc. 19.) The Commissioner filed a brief in opposition asserting that the amount of fees that Plaintiff requests is not reasonable. (Doc. 21.) Plaintiff filed a brief in reply to the Commissioner's opposition. (Doc. 22.)

Requests for additional EAJA awards for the time spent filing a reply brief should generally be included in the reply brief itself, but Plaintiff has not included any such request in the reply brief. To the extent that Plaintiff will be seeking any EAJA fees for time expended by counsel on Plaintiff's reply brief, a supplemental request should be filed within the next 20 days. *See* 28 U.S.C. § 2412(d)(1)(C) ("The court, in its discretion, may reduce the amount to be awarded pursuant to this subsection, or deny an award, to the extent that the prevailing party during the course of the proceedings engaged in conduct which unduly and unreasonably protracted the final resolution of the matter in the controversy.") Considering the entirety of Plaintiff's EAJA application(s) at one

1 time promotes efficient judicial review.¹ *See Comm'r, INS v. Jean*, 496 U.S. 154, 163 (1990)
2 (theoretically infinite litigation to recover fees for the last round of litigation over fees can spawn
3 "Kafkaesque judicial nightmare").

4 Accordingly, IT IS HEREBY ORDERED that:

- 5 1. Any supplemental application for an award of EAJA fees must be filed within 20
6 days from the date of this order;
- 7 2. Requests for supplemental EAJA awards filed beyond this time will be considered
8 untimely and out of compliance with a court order;
- 9 3. To the extent the Commissioner wishes to file an opposition to Plaintiff's
10 supplemental request, he may do so within 20 days from the date Plaintiff's
11 supplemental request is filed; and
- 12 4. **No reply to any opposition filed by the Commissioner shall be permitted.**

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14 IT IS SO ORDERED.

15 **Dated: November 21, 2011**

15 **/s/ Sheila K. Oberto**
16 **UNITED STATES MAGISTRATE JUDGE**

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27 ¹ At this stage, the Court makes no finding whether the amount of the EAJA award Plaintiff requests is
28 reasonable.