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**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA**

KARRIE ANN FRAZIER,

Plaintiff,

v.

COMMISSIONER OF SOCIAL
SECURITY,

Defendant.

No. 2:13-CV-0756-TLN-DMC

ORDER

Plaintiff, who is proceeding with retained counsel, brought this action for judicial review of a final decision of the Commissioner of Social Security under 42 U.S.C. § 405(g). Final judgment remanding the matter was entered on September 26, 2014. Following entry of judgment, the Court issued an order awarding \$13,166.21 in fees and \$235.05 in costs pursuant to the Equal Access to Justice Act (EAJA). See ECF No. 37. Pending before the Court are the parties' motions, ECF Nos. 38 and 40, for correction and clarification of the Court's order awarding fees and costs. Plaintiff seeks correction regarding the amount to be paid, which Defendant opposes. See ECF Nos. 40 (motion) and 41 (opposition). Defendant seeks clarification of the date by which payment was to have been made, which Plaintiff does not oppose. See ECF Nos. 38 (motion) and 40 (Plaintiff's motion and non-opposition to Defendant's motion).

1 The Court may grant reconsideration under Federal Rules of Civil Procedure 59(e)
2 and 60. Under Rule 60(a), the Court may grant reconsideration of final judgments and any order
3 based on clerical mistakes. Relief under this rule can be granted on the Court’s own motion and
4 at any time. See Fed. R. Civ. P. 60(a).

5 In the motion to clarify, Defendant seeks clarification under Rule 60(a) of the date
6 by which payment was to have been made. The Court directed payment of \$13,166.21 in fees
7 and \$253.05 in costs under the EAJA, “payable to plaintiff within 65 days of the date of this
8 order.” ECF No. 37, pg. 8. Good cause appearing therefor, Defendant’s unopposed motion for
9 clarification is granted. The Court hereby clarifies its prior order to reflect that initiation of the
10 payment process within the time period specified constitutes compliance with the Court’s order.
11 The Court also hereby clarifies that fees and costs may be paid directly to Plaintiff’s counsel if it
12 is determined that Plaintiff does not owe any federal debt which would constitute an offset. See
13 Kirk v. Berryhill, 244 F. Supp. 3d 1077, 1085 (E. Dist. Cal. 2017); see also Astrue v. Ratliff, 560
14 U.S. 586 (2010).

15 In the motion for correction of the prior order, Plaintiff contends that the Court
16 miscalculated the final payment amounts. See ECF No. 40. In her initial motion for EAJA fees
17 and costs, Plaintiff sought an award of \$16,457.76 in fees and \$253.05 in costs. See ECF No. 25.
18 The Court agreed with Defendant that the amount of fees sought was excessive and reduced the
19 fee award by 20%, ultimately awarding \$13,166.21 in fees and the originally requested \$253.05
20 in costs. See ECF No. 37. In the current motion, Plaintiff contends that the Court miscalculated
21 the reduced fee amount based on an incorrect base amount. See ECF No. 40. According to
22 Plaintiff, she initially requested \$19,114.68 in fees, not \$16,457.76. See id. While Plaintiff
23 sought the lower base fee amount in her initial EAJA fees motion, see ECF No. 25, Plaintiff states
24 that the additional amount accounts for time spent responding to Defendant’s opposition to her
25 initial EAJA fees motion, see ECF Nos. 31 and 40. Plaintiff also seeks additional costs associated
26 with the EAJA fees litigation in the amount of \$82.50. See id.

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1 As Plaintiff notes, a prevailing party is entitled to fees associated with subsequent
2 litigation over the award of fees and costs under the EAJA. See INS v. Jean, 496 U.S. 154
3 (1990). As Plaintiff also notes, the Court found no reason to discount the amount of costs
4 claimed. The Court only discounted the amount of fees claimed. In correcting a clerical error,
5 the Court will also do so with respect to the amount of additional fees requested associated with
6 the reply in support of Plaintiff's initial EAJA motion. This reduction is made for the reasons
7 outlined in the Court's initial order awarding EAJA fees and costs.

8 Accordingly, IT IS HEREBY ORDERED that:

- 9 1. Defendant's unopposed motion for clarification, ECF No. 38, is granted as
10 explained above;
- 11 2. Plaintiff's motion for correction of a clerical error, ECF No. 40, is granted
12 as explained above;
- 13 3. Plaintiff is awarded an additional \$2,125.54, representing 20% of the
14 difference between the amount sought in the initial motion (\$16,457.76) and the amount sought
15 in the reply (\$19,114.68); and
- 16 4. Plaintiff is awarded an additional \$82.50 in costs.

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18 Dated: May 26, 2021



19 DENNIS M. COTA
20 UNITED STATES MAGISTRATE JUDGE