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UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA

THOMAS A. MICHALSKI,  
Plaintiff,  
v.  
CAROLYN COLVIN,  
Defendant.

Case No. [15-cv-04483-EMC](#)

**ORDER GRANTING PLAINTIFF'S  
COUNSEL'S PETITION FOR  
APPROVAL OF ATTORNEY FEES, 42  
U.S.C. § 406(B)**

Docket No. 24

The Court has reviewed Ms. Trompeter's fee motion and the government's response thereto. The Court finds that the fee request is reasonable. The Court does not find that Ms. Trompeter engaged in any unnecessary delay. Also, the Court heavily takes into account that Ms. Trompeter is foregoing any fees incurred at the agency level on remand after the summary judgment order issued. Given the additional time spent by Ms. Trompeter on remand, it is likely that the effective hourly rate being sought here is comparable to the effective hourly rate awarded by Judge Seeborg in *Slotnick v. Colvin*, No. C-13-2283 RS (Docket No. 26) (order, filed on August 5, 2016). The Court notes, however, that it does not agree with Ms. Trompeter's position that an effective hourly rate should be calculated after deducting any EAJA award. *See Stewart v. Astrue*, No. C 05-2317 PVT, 2010 U.S. Dist. LEXIS 35936, at \*3 (N.D. Cal. Mar. 15, 2010) ("Plaintiff's counsel's suggestion that the court should base its reasonableness determination on just \$ 11,765.89 of the award [i.e., taking out the EAJA award] ignores the reality of how much money he will actually have received for the court case."). In any event, given Ms. Trompeter's representation that she will not seek additional fees incurred at the agency level, the 25% contingency is reasonable.

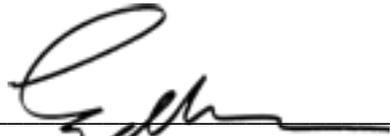
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Accordingly, the fee motion is hereby **GRANTED**. Ms. Trompeter is awarded \$36,248.25 in fees. Ms. Trompeter shall promptly refund the portion of the EAJA award attributable to attorney's fees to Mr. Michalski.

This order disposes of Docket No. 24.

**IT IS SO ORDERED.**

Dated: October 24, 2017

  
EDWARD M. CHEN  
United States District Judge