

1 and quality of the services provided. Id. Such fees, however, shall not exceed \$125 per hour “unless
2 the court determines that an increase in the cost of living or a special factor, such as the limited
3 availability of qualified attorneys for the proceedings involved, justifies a higher fee.” 28 U.S.C. §
4 2412(d)(2)(A)(ii). The Commissioner does not dispute an hourly award of \$170.00 per hour,
5 representing the CPI adjusted hourly rate.

6 The only other issue concerns the reasonableness of the requested hours. The party seeking
7 an award of fees has the burden to demonstrate that the requested hours were appropriate and
8 reasonable. Hensley, 461 U.S. 424, 437 (1983). “Where a plaintiff has obtained excellent results, his
9 attorney should recover a fully compensatory fee. Normally this will encompass all hours *reasonably*
10 expended on the litigation” Id. at 435 (emphasis added). Hours that are excessive, redundant,
11 or otherwise unnecessary should be excluded. Id. at 434.

12 Plaintiff’s counsel (“Counsel”) declares that she expended 59.9 hours on the instant case,
13 (Decl. of Mary Mitchell, Exh. A), submits a detailed hourly sheet in support of the requested hours
14 and requests an award of \$10,183. In support of her fees, Counsel argues that she obtained the
15 functional equivalent of an “excellent result” because the action has been remanded to the ALJ for
16 further consideration and therefore she should receive full compensation for her time. (Motion at
17 p.11:25-27). Counsel further argues that all fees “were all reasonably expended in pursuit of
18 plaintiff’s right to judicial review and an EAJA award.” (Motion at p.11:9-10).

19 The court concludes that the total amount of hours requested is not reasonable. First, while
20 Plaintiff characterizes the results obtained in this case as “excellent,” the court notes that Counsel
21 obtained a remand to the ALJ for further consideration. Whether further consideration of Plaintiff’s
22 claims will ultimately result in an award of benefits remains an open question. This is not the case
23 where Counsel obtained an outright reversal of the ALJ and an award of benefits. While Counsel
24 obtained a satisfactory result, the characterization as “excellent” appears overbroad. Second, as noted
25 by the Commissioner, numerous courts have awarded fees in routine cases in the amount of 20 to 35
26 hours. Patterson v. Apfel, 99 F.Supp.2d 1212 n.2 (C.D. Cal.2000) (finding 37.25 hours a reasonable
27 fee award for a non-routine matters); Penrod v. Apfel, 54 F.Supp.2d 961, 964 (D. Ariz. 1999) (28.98
28 hours of time a reasonable fee award; Vanover v. Chater, 946 F.Supp. 744 (E.D. Mo 1996) (noting


1 that routine social Security cases usually required between 15 and 20 hours). In keeping with the
2 general practice of awarding attorney's fees in routine cases like the present one, the court concludes
3 that an award in the 40 hour range is appropriate under the circumstances.

4 Further, analyzing Counsel's time sheets, the court concludes that several hourly entries are
5 not reasonable. For example, Counsel claims 7.85 hours for time spent conferring with an attorney
6 colleague (1/29/08, 2/1/08, 12/2/08, and 4/14/09). In light of the relatively routine nature of Plaintiff's
7 claims, the court disallows 6 of these hours. The court also reduces the time Counsel spent reviewing
8 this court's March 27, 2009 Order from 3.5 hours to 1 hour. The court also concludes that the time
9 billed for preparing the EAJA fee request, 8.24 hours, is unreasonable. The court reduces this amount
10 to 2.24 hours. Similarly, the time spent by Counsel, 4.49 hours, in researching the issue of substantial
11 justification for purposes of an EAJA fee award request appears excessive. The court reduces this
12 time to 1.49 hours.

13 In sum, after analyzing Counsel's time sheet, the court reduces the requested hours from 59.9
14 to 42.4 hours, representing a reduction of 17.5 hours, as identified above. Accordingly, the court
15 awards attorney's fees in the amount of \$7,208.

16 **IT IS SO ORDERED.**

17 DATED: February 16, 2010

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19 _____
20 Hon. Jeffrey T. Miller
21 United States District Judge

22 cc: All parties

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