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8 UNITED STATES DISTRICT COURT
9 SOUTHERN DISTRICT OF CALIFORNIA
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11 DAVID R.,

12 Plaintiff,

13 v.

14 KILOLO KIJAKAZI, Acting
15 Commissioner of Social Security,

16 Defendant.

Case No.: 20cv2431-LL

**ORDER REQUESTING
SUPPLEMENTAL BRIEFING ON
JOINT MOTION FOR ATTORNEY'S
FEES AND EXPENSES**

17 On August 16, 2021, the Court issued an order granting the parties' joint motion for
18 voluntary remand of this action, and the Clerk of Court subsequently entered final
19 judgment in favor of Plaintiff and against Defendant. ECF Nos. 14, 15. On November 4,
20 2021, the parties jointly moved the Court to award Plaintiff \$5,000 in attorney's fees and
21 expenses pursuant to the Equal Access to Justice Act ("EAJA"), 28 U.S.C. § 2412(d), and
22 \$402 in costs pursuant to 28 U.S.C. § 1920. ECF No. 16.

23 Section 2412(d) includes the following:

24 A party seeking an award of fees and other expenses **shall**, within thirty days
25 of final judgment in the action, submit to the court an application for fees and
26 other expenses which shows that the party is a prevailing party and is eligible
27 to receive an award under this subsection, and the amount sought, including
28 an itemized statement from any attorney or expert witness representing or
appearing in behalf of the party stating the actual time expended and the rate
at which fees and other expenses were computed. The party shall also allege

1 that the position of the United States was not substantially justified. Whether
2 or not the position of the United States was substantially justified shall be
3 determined on the basis of the record (including the record with respect to the
4 action or failure to act by the agency upon which the civil action is based)
which is made in the civil action for which fees and other expenses are sought.

5 28 U.S.C. § 2412(d)(1)(B) (emphasis added). Additionally, Section 2412(d)(2)(A) states:

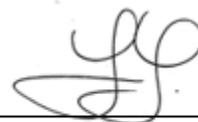
6 “[F]ees and other expenses” includes the reasonable expenses of expert
7 witnesses, the reasonable cost of any study, analysis, engineering report, test,
8 or project which is found by the court to be necessary for the preparation of
9 the party's case, and reasonable attorney fees (The amount of fees awarded
10 under this subsection shall be based upon prevailing market rates for the kind
11 and quality of the services furnished, except that (i) no expert witness shall be
12 compensated at a rate in excess of the highest rate of compensation for expert
13 witnesses paid by the United States; and (ii) attorney fees shall not be awarded
in excess of \$125 per hour unless the court determines that an increase in the
cost of living or a special factor, such as the limited availability of qualified
attorneys for the proceedings involved, justifies a higher fee.).

14 28 U.S.C. § 2412(d)(2)(A).

15 The Court is unable to make a proper determination pursuant to the EAJA without
16 additional information. In the case of a stipulation for fees, this Court has found that
17 Plaintiff must provide either an itemized statement stating the actual time expended and
18 the rate at which fees and other expenses were computed, or a declaration of each
19 individual's title and rate and each individual's total hours expended. Bradley V. v.
20 Kijakazi, No. 20cv1547-LL, 2021 WL 4554108, at *3 (S.D. Cal. Oct. 4, 2021).
21 Accordingly, the Court orders Plaintiff to submit supplemental briefing with the above
22 information by **December 9, 2021**.

23 **IT IS SO ORDERED.**

24 Dated: November 18, 2021



25
26 Honorable Linda Lopez
27 United States Magistrate Judge
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