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8 UNITED STATES DISTRICT COURT  
9 SOUTHERN DISTRICT OF CALIFORNIA  
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11 LISA M.,

12 Plaintiff,

13 v.

14 KILOLO KIJAKAZI, Acting  
15 Commissioner of Social Security,

16 Defendant.  
17

Case No.: 21-cv-01501-JLB

**ORDER GRANTING JOINT  
MOTION FOR THE AWARD AND  
PAYMENT OF ATTORNEY FEES  
AND EXPENSES PURSUANT TO  
THE EQUAL ACCESS TO JUSTICE  
ACT, 28 U.S.C. § 2412(d) AND COSTS  
PURSUANT TO 28 U.S.C. § 1920**

**[ECF No. 25]**  
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19 On August 24, 2021, Plaintiff Lisa M. (“Plaintiff”) filed a complaint seeking judicial  
20 review of the denial of her applications for social security disability benefits and  
21 supplemental security income (“SSI”) benefits by the Commissioner of Social Security (the  
22 “Commissioner”). (ECF No. 1.) The Commissioner filed the administrative record on  
23 May 20, 2022. (ECF No. 11.) On September 12, 2022, Plaintiff filed a merits brief. (ECF  
24 No. 19.)

25 The parties filed a joint motion for voluntary remand to agency pursuant to sentence  
26 four of 42 U.S.C. § 405(g) and entry of judgment on October 6, 2022. (ECF No. 22.) On  
27 October 7, 2022, the Court granted the joint motion and remanded the matter to the Social  
28 Security Administration (“SSA”) for further administrative proceedings pursuant to

1 sentence four of 42 U.S.C. § 405(g), and directed the Clerk of Court to enter final judgment  
2 in favor of Plaintiff. (ECF Nos. 23, 24.)

3 Now before the Court is a joint motion for the award and payment of attorney fees  
4 and expenses pursuant to the Equal Access to Justice Act (“EAJA”), 28 U.S.C. § 2412(d),  
5 and costs pursuant to 28 U.S.C. § 1920. (ECF No. 25.) The parties jointly ask the Court  
6 to award Plaintiff attorney fees and expenses in the amount of \$4,700.00<sup>1</sup> under the EAJA.  
7 (*Id.* at 1.) This amount represents compensation for all legal services rendered on behalf  
8 of Plaintiff by counsel in connection with this action. (*Id.*)

9 A litigant is entitled to attorney’s fees under the EAJA if: “(1) [s]he is the prevailing  
10 party; (2) the government fails to show that its position was substantially justified or that  
11 special circumstances make an award unjust; and (3) the requested fees and costs are  
12 reasonable.” *Carbonell v. I.N.S.*, 429 F.3d 894, 898 (9th Cir. 2005) (citing *Perez–Arellano*  
13 *v. Smith*, 279 F.3d 791, 793 (9th Cir. 2002)); *see also* 28 U.S.C. § 2412(d)(1)(A). “A  
14 plaintiff who obtains a sentence four remand” under 42 U.S.C. § 405(g), even when further  
15 administrative review is ordered, “is considered a prevailing party for purposes of  
16 attorneys’ fees.” *Akopyan v. Barnhart*, 296 F.3d 852, 854 (9th Cir. 2002) (citing *Schalala*  
17 *v. Schaefer*, 509 U.S. 292, 297–98, 301–02 (1993)).

18 The prevailing party is eligible to seek attorney’s fees within thirty days of final  
19 judgment in the action. 28 U.S.C. § 2412(d)(1)(B). “A sentence four remand becomes a  
20 final judgment, for purposes of attorneys’ fees claims brought pursuant to the EAJA, upon  
21 expiration of the time for appeal.” *Akopyan*, 296 F.3d at 854 (internal citation omitted)  
22 (citing *Schaefer*, 509 U.S. at 297). Under Federal Rule of Appellate Procedure 4(a)(1)(B),  
23 the time for appeal expires sixty days after entry of judgment if one of the parties is a  
24 United States officer sued in an official capacity. Therefore, a motion for attorney’s fees  
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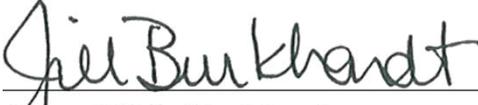
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27 <sup>1</sup> In Plaintiff’s itemization of fees, the total fee was calculated to be \$4,888.69.  
28 (ECF No. 25-1.) However, the parties negotiated a lesser amount and, in the parties’ joint  
motion, the total fee requested was \$4,700.00. (ECF No. 25 at 1.)

1 filed after a sentence four remand is timely if filed within thirty days after Rule 4(a)'s sixty-  
 2 day appeal period has expired. *Hoa Hong Van v. Barnhart*, 483 F.3d 600, 607 (9th Cir.  
 3 2007).

4 Here, the Court finds that the parties' joint motion is timely, Plaintiff is the prevailing  
 5 party in this action, the Commissioner has not met her burden of showing her position was  
 6 substantially justified or that special circumstances make an award unjust, and the  
 7 stipulated amount of fees is reasonable.<sup>2</sup> Accordingly, the Court **GRANTS** the parties'  
 8 joint motion and **AWARDS** Plaintiff \$4,700 in attorney fees and expenses pursuant to  
 9 28 U.S.C. § 2412, subject to the terms of the joint motion.

10 **IT IS SO ORDERED.**

11 Dated: November 17, 2022

12   
 13 Hon. Jill L. Burkhardt  
 14 United States Magistrate Judge

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 19 <sup>2</sup> Counsel's hourly rates are in line with the Ninth Circuit's EAJA hourly rate. (ECF  
 20 No. 25-1.) Plaintiff's counsel billed an hourly rate of \$217.54 in 2021 and \$231.49 in 2022,  
 21 and their paralegal billed an hourly rate of \$143. (*Id.*) The Ninth Circuit's EAJA hourly  
 22 rate was \$217.54 for work performed in 2021 and \$231.49 for work performed in the first  
 23 half of 2022. See Statutory Maximum Rates Under the EAJA, U.S. Courts for the Ninth  
 24 Circuit, <https://www.ca9.uscourts.gov/attorneys/statutory-maximum-rates/> (last visited  
 25 Nov. 10, 2022). The paralegal rate of \$143.00 is also consistent with the median hourly  
 26 rate for paralegals in San Diego. See *Nadarajah v. Holder*, 569 F.3d 906, 918 (9th Cir.  
 27 2009) (courts may approve paralegal rates at prevailing market rates); *Roland S. v. Saul*,  
 28 No. 3:20-CV-01068-AHG, 2021 WL 4081567, at \*3 (S.D. Cal. Sept. 7, 2021) (finding an  
 hourly rate of \$143 for work done by a paralegal in 2020 and 2021 in the San Diego area  
 to be reasonable based on the prevailing market rate). See also *Eryberto H. v. Kijakazi*,  
 20-cv-02427-JLB (S.D. Cal.), ECF No. 18 (finding an award of \$4,600 in attorney's fees  
 and expenses reasonable after parties jointly moved to remand upon Plaintiff filing a merits  
 brief).