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UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA

JOYCE M. D.,¹

Plaintiff,

v.

KILOLO KIJAKAZI, Acting
Commissioner of the Social Security
Administration,

Defendant.

Case No.: 3:22-cv-00318-BEN-DEB

**ORDER DENYING MOTION FOR
ATTORNEY’S FEES**

Plaintiff Joyce M. D. filed this action seeking judicial review of the Social Security Commissioner’s denial of Supplemental Security Income benefits. The parties filed cross-motions for summary judgment. The United States Magistrate Judge issued a Report and Recommendation which recommended this Court grant Defendant’s Motion for Summary Judgment, thereby affirming the decision of the Commissioner. Specifically, the R&R found the Administrative Law Judge (“ALJ”) had sufficiently explained the consistency and supportability factors when evaluating each medical

¹ Pursuant to Local Rule 7.1(e)(6)(b), this Order identifies the non-government party by the first name and initial of the last name.

1 provider's opinion. Plaintiff filed an Objection to the Report and Recommendation.
2 Ultimately, the Report and Recommendation was only partially adopted and, contrary to
3 the Recommendation, the appeal was remanded. Now, Plaintiff requests an award of
4 attorney's fees in the amount of \$11,106.58 under the Equal Access to Justice Act
5 ("EAJA"), 28 U.S.C. § 2412(d).

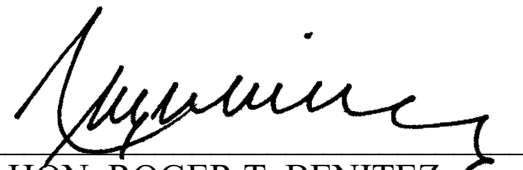
6 A prevailing party is not entitled to fees under EAJA if the government's position
7 in defending the case was "substantially justified." See 28 U.S.C. § 2412(d)(1)(A);
8 *Pierce v. Underwood*, 487 U.S. 552, 556, n.2 (1988); *Le v. Astrue*, 529 F.3d 1200, 1201
9 (9th Cir. 2008). Here, the Commissioner's defense concerning the main issue for review
10 (the ALJ's evaluation of the medical opinions and prior administrative findings) was
11 substantially justified as evidenced by, *inter alia*, the fact that the United States
12 Magistrate Judge found that the ALJ's evaluation of the medical opinions and prior
13 administrative findings was supported by substantial evidence. See *Lewis v. Barnhart*,
14 281 F.3d 1081, 1084 (9th Cir. 2002) (holding that in determining whether the
15 Commissioner was substantially justified a district court can consider among other things
16 a magistrate judge's recommendation to uphold the ALJ's decision).

17 CONCLUSION

18 This Court's own review finds that the Commissioner was substantially justified in
19 its defense of the Commissioner's final decision. The United States Magistrate Judge's
20 exhaustive analysis and agreement with the Commissioner's conclusion is further
21 evidence that the defense was substantially justified. Therefore, while Plaintiff ultimately
22 prevailed, Plaintiff is not entitled to an award of Attorney's fees under the EAJA.
23 Plaintiff's motion is **DENIED**.

24 **IT IS SO ORDERED.**

25 DATED: August 29, 2024

26 
27 HON. ROGER T. BENITEZ
28 United States District Judge