

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLORADO
Chief Judge Wiley Y. Daniel

Civil Action No. 11-cv-01145-WYD

JENNIFER MCGOWAN,

Plaintiff,

v.

MICHAEL J. ASTRUE, Commissioner of Social Security,

Defendant.

ORDER

THIS MATTER is before the Court in connection with Plaintiff's Unopposed Motion for Attorney Fees under EAJA and Amended Unopposed Motion for Attorney Fees Under EAJA, both filed on December 11, 2012. Plaintiff's counsel seeks an award of attorney fees pursuant to the Equal Access to Justice Act ["EAJA"], 28 U.S.C. § 2412(d), in the amount of \$5,700.00 (for 33.8 hours of work at slightly less than \$125.00 per hour).

The EAJA provides for an award of attorney's fees to a prevailing party in a civil action brought against the United States unless the court finds that the position of the United States was substantially justified or special circumstances make an award unjust. 28 U.S.C. § 2412(d)(1)(A). The burden of establishing that the Government's position was substantially justified rests with the Government. *Gilbert v. Shalala*, 45 F.3d 1391, 1394 (10th Cir. 1995). "Substantially justified" has been defined by the

Supreme Court as “justified to a degree that could satisfy a reasonable person.” *Pierce v. Underwood*, 487 U.S. 552, 565 (1988). Thus, the Government’s position must have had a reasonable basis in both law and fact. *Id.*

Having reviewed Plaintiff’s motions and being fully advised in the premises, I find that Plaintiff has shown that an award of fees under the EAJA is appropriate as Plaintiff was the prevailing party and the Government is not contesting the motion. In other words, it appears the Government is not asserting that the position of the United States was substantially justified or that special circumstances make an award unjust. I further find that the amount of fees sought are reasonable. Accordingly, it is

ORDERED that Plaintiff’s Unopposed Motion for Attorney Fees under EAJA (ECF No. 18) and Amended Unopposed Motion for Attorney Fees Under EAJA (ECF No. 19) are **GRANTED**. Plaintiff is awarded attorney fees under the EAJA in the amount of **\$5,700.00**. Payment shall be made payable to Plaintiff in care of Plaintiff’s attorney.

Dated: December 17, 2012

BY THE COURT:

s/ Wiley Y. Daniel
Wiley Y. Daniel
Chief United States District Judge