

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF HAWAII

DONA MATERA,)	CIV. NO. 07-00227 SPK-LEK
)	
Plaintiff,)	
)	
v.)	
)	
MICHAEL J. ASTRUE, Commissioner of))	
Social Security,)	
)	
Defendant.)	
_____)	

ORDER ADOPTING REPORT OF SPECIAL MASTER

Plaintiff objects pursuant to 28 U.S.C. § 636(b) and Local Rules 53.2 and/or 74.2 to U.S. Magistrate Judge Leslie E. Kobayashi’s September 3, 2009 Report of Special Master on Plaintiff’s Application for Award of Attorneys’ Fees. Upon de novo review by this Court, the Objections are **OVERRULED** and the Report is **ADOPTED**.

The Report found and recommended that the Application be granted in part and denied in part. It recommended an award of attorneys’ fees under the Equal Access to Justice Act of \$7,071.88. (The amount of fees sought was \$9,126.99.) Among other things, the Report reduced the amount awarded for Attorney Jones

from a rate sought of \$172.50 per hour to \$125 per hour, reasoning that she has only been practicing law since 2007 and had relatively limited experience during the period in which work was performed (Attorney Daley was awarded fees at a rate of \$172.50 and he has over 35 years of experience representing social security disability claimants). The Report reasoned that an hourly rate of \$125 for Jones was awarded in similar instances in this jurisdiction and was found to be reasonable.

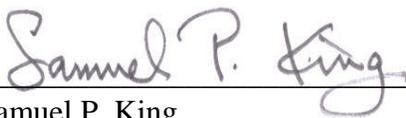
Plaintiff objects only to the reduced hourly rate. Plaintiff argues that a \$172.50 hourly rate is commensurate with the hourly rates of other associates with Jones' level of experience and with the standard billing rates of her Chicago law firm. She points out that \$172.50 is within or lower than the median rate of firms nationwide. She attaches as evidence a National Law Journal article providing a firm-by-firm sampling of billing rates in various cities throughout the nation. Plaintiff, however, submits no evidence of the billing rates in Honolulu, Hawaii, which is the relevant jurisdiction. *See, e.g., Gates v. Deukmejian*, 987 F.2d 1392, 1405 (9th Cir. 1992), *as amended on denial of reh'g*, (1993) (noting that the rate awarded should reflect "the rates of attorneys practicing in the forum district"). In any event, the Court finds a rate of \$125 per hour for Attorney Jones to be reasonable.

Considering the record and argument, the Court agrees with Judge Kobayashi. A total EAJA fee award of \$7,071.88 is appropriate. Accordingly, the objections are OVERRULED and the September 3, 2009, Report of Special Master is ADOPTED as the order and opinion of this Court.

IT IS SO ORDERED.

DATED: October 2, 2009.





Samuel P. King
Senior United States District Judge

Matera v. Astrue, Civ. No. 07-00227 SPK-LEK, Order Adopting Report of Special Master