

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF SOUTH CAROLINA

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Martha S. Strong,
Plaintiff,

v.

Michael J. Astrue, Commissioner of Social
Security Administration
Defendant.

2011 MAR - 7 P 12: 06
Case No. 0:09-cv-2101-RMG-PJG

ORDER

Before the Court is Plaintiff's motion for attorneys' fees. (Dkt. No. 24). The Defendant has opposed the motion. In this matter, the Commissioner denied benefits. After a *de novo* review, this Court remanded the matter for further administrative proceedings.

As to the motion at bar, having considered the briefing from both sides, this Court denies the Plaintiff's motion for attorneys' fees. The Equal Access to Justice Act provides attorneys' fees in actions where the government's position is not substantially justified. The substantial justification test is one of reasonableness in law and fact. *See Pierce v. Underwood*, 487 U.S. 552, 565 (1988). Here, the Government's position was not unjustified. The position espoused by the Government was not without reason and was well-briefed and argued. Ultimately, however, this Court decided to remand the matter for further findings.

AND IT IS SO ORDERED.


Richard Mark Gergel
United States District Court Judge

March 7, 2011
Charleston, South Carolina