

UNITED STATES DISTRICT COURT  
DISTRICT OF SOUTH DAKOTA  
CENTRAL DIVISION

**FILED**

MAR 23 2009



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BARBARA L. DEWALD,

Plaintiff,

-vs-

MICHAEL J. ASTRUE,  
Commissioner of Social Security,

Defendant.

CIV 07-3036

ORDER ADOPTING  
REPORT AND RECOMMENDATION

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Plaintiff brought this action pursuant to § 205(g) of the Social Security Act, 42 U.S.C. § 405(g), to obtain judicial review of defendant's final decision denying plaintiff's claim for disability and supplemental security insurance benefits. The Commissioner's decision in this matter was reversed and remanded to the Commissioner with directions to (1) properly evaluate the opinions of Dewald's medical providers; (2) reassess Dewald's testimony and credibility in light of her mental impairments; (3) further develop the record with additional consultative examinations and testing; and (4) issue a new decision based on substantial evidence of the record as a whole, based on relevant legal standards, all as recommended by the magistrate in his report and recommendation.

Plaintiff filed a motion for attorney fees and expenses pursuant to the Equal Access to Justice Act. The matter was referred to United States Magistrate Judge Mark A. Moreno. The magistrate filed his Report and Recommendation and copies of such Report and Recommendation were served upon the parties as required by 28 U.S.C. § 636. No party has filed objections thereto. I have conducted a review of the file and the report as required by 28 U.S.C. § 636(b)(1)(C).

The magistrate recommended that the parties joint stipulation agreeing to an award of \$7,500 in attorney's fees, plus sales tax thereon, be adopted. I adopt the magistrate judge's determination that such award is just and reasonable under the circumstances.

Now, therefore,

IT IS ORDERED:

1. The Report and Recommendations of the U.S. Magistrate Judge, Doc. 30, is accepted and adopted.

2. The parties' joint stipulation, Doc. 28, is approved.

3. The motion of the plaintiff, Doc. 22, for attorneys fees is granted, in part. The motion shall be granted to the extent that it seeks attorney's fees in the amount of \$7,500, plus sales tax thereon. In all other respects, the motion is denied.

4. The Social Security Administration shall issue payment in the amount of \$7,500 plus sales tax thereon directly to plaintiff's counsel.

Dated this 20<sup>th</sup> day of March, 2009.

BY THE COURT:

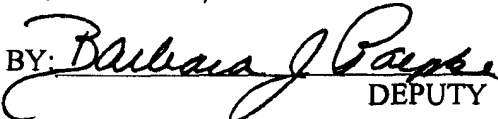


CHARLES B. KORNMANN

United States District Judge

ATTEST:

JOSEPH HAAS, CLERK

BY:  DEPUTY

(SEAL)