

1
2
3
4
5
6 UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

7 ROGER A. FRIEDRICHSEN,

8 Plaintiff,

9 v.

10 COMMISSIONER OF SOCIAL SECURITY,

11 Defendant.

CASE NO. C17-5995 BAT

12
13 **ORDER GRANTING PLAINTIFF'S
MOTION FOR EAJA FEES**

14 Plaintiff seeks fees under the Equal Access to Justice Act, 28 U.S.C. § 2412(d) (“EAJA”) in the amount of **\$8,828.33**. Dkt. 23. Although the Commissioner concedes that EAJA fees are warranted because her position was not substantially justified, she argues that the fee award should be reduced because plaintiff should have consented to a remand for further administrative proceedings instead of contending in the reply brief that the remand should be for an immediate award of benefits. Dkt. 24. The Court **GRANTS** plaintiff’s motion for EAJA fees in the full amount because the request is reasonable and should include counsel’s time expended in filing a reply brief and in litigating EAJA fees.¹

21 The entirety of the Commissioner’s opposition to plaintiff’s request for EAJA fees is this:

22
23 ¹ Plaintiff does not seek fees for the time spent in filing a reply brief on the EAJA fees motion. Dkt. 25, at 5.

1 plaintiff should have stipulated to a remand for further administrative proceedings such that any
2 time counsel expended after the stipulation was rejected should be deemed unreasonable. Dkt.
3 24. The Commissioner makes this argument even though her response brief spent no time
4 whatsoever examining how the record demonstrated that a remand for further proceedings would
5 be preferable to a remand for an award of benefits. Dkt. 18. Although the Court ultimately
6 determined that a remand for further administrative proceedings was warranted, it did so based
7 on an independent review of the record entirely unassisted by the Commissioner's conclusory
8 statements. Moreover, although plaintiff's request for a remand for benefits was rejected,
9 plaintiff's argumentation was detailed and well-supported by accurate citations to the record and
10 to case law. *See, e.g., Scott v. Berryhill*, C17-5349-RSM (W.D. Wash. Mar. 18, 2018); *St. Martin*
11 *v. Colvin*, C14-5781-RJB (W.D. Wash. Nov. 2, 2015).

12 The Court therefore orders that plaintiff be awarded EAJA fees in the amount of
13 **\$8,828.33**. Subject to any offset allowed under the Treasury Offset Program, *Astrue v. Ratliff*,
14 560 U.S. 586 (2010), the check for EAJA fees should be made payable to Jamie Evans and
15 mailed to 610 SW Broadway, Suite 405, Portland, OR 97205. If plaintiff has a debt, the check
16 for any remaining funds after offset of the debt shall be made out to plaintiff and mailed to
17 plaintiff's attorney, Jamie Evans, at the address above.

18 DATED this 24th day of October, 2018.

19
20 

21 _____
22 BRIAN A. TSUCHIDA
23 Chief United States Magistrate Judge