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U.S. DISTRICT COURT

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DISTRICT OF UTAH

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AUG 31 2009

OFFICE OF U.S. DISTRICT JUDGE
BRUCE S. JENKINS

**UNITED STATES DISTRICT COURT**
**DISTRICT OF UTAH**
**CENTRAL DIVISION**

APRIL M. SCHRAEDER,

Plaintiff,

vs.

MICHAEL J. ASTRUE

COMMISSIONER OF SOCIAL SECURITY

Defendant.

**MEMORANDUM DECISION AND ORDER GRANTING PLAINTIFF'S EAJA FEE APPLICATION**

1:08-cv-62-BSJ

Judge Bruce S. Jenkins

In this Social Security case, Plaintiff seeks attorney fees

under the Equal Access to Justice Act (EAJA). "Under EAJA, a fee award is required if: (1) plaintiff is a 'prevailing party'; (2) the position of the United States was not 'substantially justified'; and (3) there are no special circumstances that make an award of fees unjust."[1] It is undisputed that Plaintiff is a prevailing party under the EAJA because she obtained a "sentence four"[2] remand. The Commissioner has not challenged Plaintiff's computation of her claimed attorney fees, their reasonableness, or that the position of the government was not substantially justified.[3]

Having reviewed the standard for an award of EAJA fees in Social Security cases[4], the record in this case, the Motion and Affidavit, and the Commissioner's Notice, the Court finds as follows: Plaintiff is the prevailing party. The Commissioner's position was not substantially justified. Plaintiff requests attorney fees for 20 hours of attorney time at $100 an hour. The

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[1] *Hackett v. Barnhart*, 475 F.3d 1166, 1172 910th Cir. 2007)(citing 28 U.S.C. § 2412(d)(1)(A)).
[2] Sentence four of 42 U.S.C. § 405(g).
[3] *Scarborough v. Principi*, 541 U.S. 401, 414 (2004).
[4] E.g., *Hackett*, 475 F.3d at 1172-75 (examining controlling

Court finds that hourly rate is reasonable. Attorney fees in the amount of $2,000 are awardable under the EAJA. It is therefore

ORDERED that Plaintiff's Motion for Attorney Fees under the EAJA (Docket No. 23) is GRANTED. It is further

ORDERED that Plaintiff's counsel is awarded attorney fees in the amount of $2,000.00 pursuant to 42 U.S.C. § 2412(d).

DATED August 31, 2009.

BY THE COURT:

BRUCE S. JENKINS
United Stated District Judge

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standards for an award of EAJA fees in Social Security cases).