

**UNITED STATES DISTRICT COURT  
DISTRICT OF MAINE**

<b>DEBORAH OGLE,</b>	)	
	)	
<b>PLAINTIFF</b>	)	
	)	
<b>v.</b>	)	<b>CIVIL No. 99-314-P-H</b>
	)	
<b>JO ANNE B. BARNHART,</b>	)	
<b>COMMISSIONER OF SOCIAL SECURITY,</b>	)	
	)	
<b>DEFENDANT</b>	)	

**ORDER AFFIRMING RECOMMENDED DECISION  
OF THE MAGISTRATE JUDGE**

The United States Magistrate Judge filed with the court on December 12, 2003, with copies to counsel, his Recommended Decision on Plaintiff's Motions for Attorney Fees. The defendant filed her objection to the Magistrate Judge's Recommended Decision on January 5, 2004. I have reviewed and considered the Recommended Decision, together with the entire record; I have made a *de novo* determination of all matters adjudicated by the Recommended Decision; and I concur with the recommendations of the United States Magistrate Judge for the reasons set forth in the Recommended Decision, and determine that no further proceeding is necessary.

It is too late now to change the Appeals Council's statement that this was a sentence six (42 U.S.C. §405(g)) remand, and the Commissioner's lawyer's

representation to the Magistrate Judge that this was a sentence six remand. The whole point of the proceeding before the Magistrate Judge is wasted if the Commissioner, having lost, can now change the operative legal facts.

It is therefore **ORDERED** that the Recommended Decision of the Magistrate Judge is hereby **ADOPTED**. The EAJA Motion is **GRANTED** in the amount of Three Thousand Three Hundred Seventy-seven Dollars (\$3,377). The Section 406 Motion is **GRANTED** in the amount of Four Thousand Five Hundred Seventy-two Dollars and Fifty Cents (\$4,572.50), and is otherwise **DENIED**.

**So ORDERED.**

**DATED: JANUARY 21, 2004**

**/s/D. BROCK HORNBY**

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**D. BROCK HORNBY**

**UNITED STATES DISTRICT JUDGE**