

# Andalman & Flynn

A T T O R N E Y S A T L A W

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September 19, 2008

The Honorable Chris Van Hollen  
c/o Char Rosnick  
51 Monroe Street, Suite 507  
Rockville, MD 20850

Re: H.R. 5833  
EAJA Fees for Social Security Disability Claims

Dear Congressman Van Hollen:

I would like to bring to your attention that yet another obstacle is being placed in the already overburdened lives of Social Security Disability claimants (hereinafter "Claimants"). As you know, Claimants seeking disability benefits are often forced to go through a painfully long appeals process and can often wait several years before being awarded benefits.

Claimants who are unfortunate enough to lose all of the administrative appeals have one final option, which is to go to Federal Court. At this stage in the process, almost no one has money to pay an attorney fee and court expenses. That is why the Equal Access to Justice Act (EAJA) has been so important for Claimants. It allows claimants to have access to attorneys because EAJA provides that the U.S. will pay the attorney a fee if the denial decision is reversed and the case is remanded for further proceedings before the SSA.

The Department of Justice (DOJ) has recently adopted a new interpretation of EAJA and successfully argued in some courts that EAJA awards should go directly to the claimant (plaintiff). This is a significant change because if the EAJA fee is awarded to the claimant, it can be garnished by the government before the fee is awarded to the claimant's legal counsel when the claimant owes certain debts.

Why should a claimant be paid the EAJA fee?

If an attorney were not to earn an EAJA fee for time spent in federal court, then they would not be financially able to represent claimants in federal court. It is the claimants who will be hurt by this change in the system because they will not be able to find valuable legal representation to challenge SSA denials of benefits in federal court.

I urge you to support H.R. 5833, introduced by Peter DeFazio. This legislation would clarify that EAJA fees awarded in an action brought against the Social Security Administration would be exempt from being used to offset a plaintiff's debt and would be paid directly to the attorney. This change would restore the original intent of the law, which is to increase access to courts when claimants have a legitimate case against the federal government.

Thank you for your support of this important bill to further protect the rights of Social Security Claimants. Please do not hesitate to contact me if you would like to discuss this matter further.

Sincerely,

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Elliott Andalman

By Elliott Andalman, Esq. – reply via email at [eandalman@a-f.net](mailto:eandalman@a-f.net)

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