

**UNITED STATES OF AMERICA
DEPARTMENT OF THE TREASURY
OFFICE OF THE COMPTROLLER OF THE CURRENCY**

In the Matter of:

LAURA AKAHOSHI, former Chief Compliance Officer
Equal Access to Justice Applicant

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) OCC AA-EC-2018-20
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**ORDER STAYING EQUAL ACCESS TO JUSTICE ACT
APPLICATION DURING NINTH CIRCUIT APPEAL**

On May 5, 2023, pursuant to 5 U.S.C. § 504, Laura Akahoshi filed with the Office of the Comptroller of the Currency an Application for an Award of Attorneys’ Fees and Costs Pursuant to the Equal Access to Justice Act (“EAJA Application”). On the same day, Ms. Akahoshi filed in the United States Court of Appeals for the Ninth Circuit a petition for review of the Comptroller’s Final Decision Terminating Enforcement Action, which dismissed the charges against Ms. Akahoshi on April 5, 2023. On June 14, 2023, Administrative Law Judge Whang entered an order denying Respondent’s EAJA Application.¹

Because Ms. Akahoshi is currently seeking review of the dismissal order in the Ninth Circuit, this matter has not yet resulted in a “final disposition” or “final judgment” as required by EAJA. 5 U.S.C. § 504(a)(2); 28 U.S.C. § 2412(d)(2)(G) (“[F]inal judgment’ means a judgment that is final and not appealable . . .”); 31 C.F.R. § 6.11(b) (“If review or reconsideration is sought or taken of a decision as to which an applicant believes it has prevailed, proceedings for

¹ After entry of the order, Enforcement Counsel and Ms. Akahoshi filed a Joint Stipulation and Proposed Order seeking to establish July 14, 2023 as the date ALJ Whang’s order would become “the final decision of the OCC” unless the Acting Comptroller were to issue a decision before then. For the reasons set forth in this order, the Joint Stipulation is deemed moot for present purposes.

the award of fees shall be stayed pending final disposition of the underlying controversy.”); *Scafar Contracting, Inc. v. Sec’y of Labor*, 325 F.3d 422, 423 (3d Cir. 2003) (holding that “final disposition” in 5 U.S.C. § 504 means “final and unappealable”).² Therefore, the Comptroller hereby stays Ms. Akahoshi’s application until 30 days after the appeal results in a final judgment. *See* 31 C.F.R. § 6.15.

SO ORDERED.

Michael J.
Hsu

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Michael J. Hsu
Date: 2023.07.13
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Michael J. Hsu
Acting Comptroller of the Currency

² The Comptroller notes that, because Ms. Akahoshi has appealed the agency action to the Ninth Circuit, her EAJA application may have been filed under the incorrect statute. *See* 5 U.S.C. § 504(c)(1) (“If a court reviews the underlying decision of the adversary adjudication, an award for fees and other expenses may be made only pursuant to section 2412(d)(3) of title 28”).