

United States Court of Appeals

For the Seventh Circuit
Chicago, Illinois 60604

August 10, 2011

Before

RICHARD A. POSNER, *Circuit Judge*

ILANA DIAMOND ROVNER, *Circuit Judge*

DIANE P. WOOD, *Circuit Judge*

No. 10-3746

JAYNE A. MATHEWS-SHEETS,
Plaintiff-Appellant,

v.

MICHAEL J. ASTRUE, Commissioner
of Social Security,
Defendant-Appellee.

Appeal from the United States
District Court for the Southern
District of Indiana, Indianapolis
Division.

No. 1:08-cv-1426-WTL-DML

William T. Lawrence, *Judge.*

ORDER

On page 7 of the slip opinion in this case issued on August 8, 2011, the following passage appears:

"The government's brief in response said it was too much. The lawyer replied that it wasn't too much because inflation brought the \$125 statutory presumptive maximum to \$170 in real terms. That was a non sequitur; a cost of living adjustment that raised the statutory fee to \$170 provided no basis for an award of \$225."

The passage is hereby stricken and the following substituted:

"He based his request for that fee on prevailing rates, without explicit mention of cost of living. The government's brief in response said he was asking for too much. This opened the way for him to reply that it wasn't too much because inflation brought the \$125 statutory presumptive maximum to \$170 in real terms. This was a permissible reply, not a forfeited argument, though it was incomplete and even a non sequitur; a cost of living adjustment that raised the statutory fee to \$170 provided no basis for an award of \$225."