Malone v. Colvin
Doc. 38

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UNITED STATES DISTRICT COURT

FOR THE DISTRICT OF ARIZONA

Theresa Malone, on behalf of Daniel McGettigan, deceased, Plaintiff, v. Carolyn W. Colvin, Acting Commissioner of Social Security Administration, Defendant.	)))))))))))	No. CV-13-2054-PHX-LOA ORDER

This case arises on the parties' Stipulation for Award of EAJA Fees, requesting an order approving a stipulated amount of attorney's fees to Plaintiff under the Equal Access to Justice Act ("EAJA"), 28 U.S.C. § 2412(d). (Doc. 37) The stipulated amount of $3,112.76 represents compensation for all legal services rendered on behalf of Plaintiff by her counsel in connection with this Social Security action, in accordance with 28 U.S.C. §§ 1920, 2412(d). (*Id.*)

The parties recognize that Plaintiff assigned her right to EAJA fees to her attorney. If, after receiving the Court's EAJA fee's order, the Commissioner (1) determines that Plaintiff does not owe a debt that is subject to offset under the Treasury Offset Program; and (2) agrees to waive the requirements of the Anti-Assignment Act, then the EAJA fees will be made payable to Plaintiff's attorney. If, however, there is a

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debt owed under the Treasury Offset Program, the Commissioner cannot agree to waive the requirements of the Anti-Assignment Act, and the remaining EAJA fees after offset will be paid by a check made out to Plaintiff, but delivered to Plaintiff's attorney. *See* 31 U.S.C. § 3716(c)(3)(B).

The parties' stipulation constitutes a compromise of Plaintiff's request for EAJA attorney's fees and does not constitute an admission of liability on the part of the Commissioner under the EAJA. Payment of the agreed amount shall constitute a complete release from, and bar to, any and all claims that Plaintiff and/or Plaintiff's counsel may have relating to EAJA attorney fees connection with this action.

This award is without prejudice to the rights of Plaintiff's counsel to seek Social Security Act attorney's fees under 42 U.S.C. § 406, subject to the provisions of the EAJA.

Based upon the parties' Stipulation for Award of EAJA Fees, doc. 37, and good cause appearing,

IT IS ORDERED that the parties' Stipulation for Award of EAJA Fees, doc. 37, is **GRANTED**. EAJA fees are hereby awarded to Plaintiff in the amount of Three Thousand One Hundred Twelve Dollars and 76/100 ($3,112.76) subject to the terms of the parties' stipulation.

Dated this 16th day of May, 2014.

Lawrence O. Anderson
United States Magistrate Judge