

**IN THE UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF ARKANSAS
JONESBORO DIVISION**

MELISSA NICESCHWANDER

PLAINTIFF

V.

NO. 3:13CV00167-JTR

CAROLYN W. COLVIN,
Acting Commissioner,
Social Security Administration

DEFENDANT

ORDER

Pending before the Court is Plaintiff's Motion requesting an award of attorney's fees and expenses under the Equal Access to Justice Act ("EAJA"), 28 U.S.C. § 2412.¹ *Doc. 14.* The Commissioner has filed a Response. *Doc. 15.*

Plaintiff's attorney, David Throesch, requests a total payment of \$5,771.93 consisting of: (1) 27.66 hours of attorney work in 2013 at the adjusted hourly rate of \$182.79 (\$5,055.97); and (2) 3.84 hours of attorney work in 2014 at the adjusted hourly rate of \$186.45 (\$715.96). Counsel also requests that the award be paid directly to him based on an assignment executed by Plaintiff. *Doc. 14-2, at 10; Doc. 14-3.*

The Commissioner does not object to the requested amount of fees and

¹On June 23, 2014, the Court entered a Memorandum Opinion and Order, and a Judgment, remanding this case for further administrative proceedings. *Docs. 12, 13.*

expenses, but does object to direct payment to counsel. Pursuant to the Supreme Court's holding in *Astrue v. Ratliff*, 560 U.S. 586 (2010), an award of EAJA fees belongs to the prevailing party, not that party's lawyer. Consistent with the Commissioner's usual procedure, the check awarding EAJA fees should be made payable to Plaintiff, but mailed to the care of Plaintiff's attorney at the attorney's office.

IT IS THEREFORE ORDERED that Plaintiff's Motion for Attorney's Fees and Expenses Pursuant to the EAJA, *Doc. 14*, is GRANTED.

IT IS FURTHER ORDERED that Plaintiff is awarded \$5,771.93 in attorney's fees and expenses under the EAJA. Consistent with the Commissioner's usual procedure in light of *Astrue v. Ratliff*, 560 U.S. 586 (2010), the check awarding EAJA fees should be made payable to Plaintiff, but mailed to the care of Plaintiff's attorney at the attorney's office.

DATED this 15th day of October, 2014.



J. Thomas Ray
UNITED STATES MAGISTRATE JUDGE