

**IN THE UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF ARKANSAS
FAYETTEVILLE DIVISION**

JIM GEUSS

PLAINTIFF

v.

Civil No. 10-5244

**MICHAEL ASTRUE,¹ Commissioner
Social Security Administration**

DEFENDANT

O R D E R

Now on this 22nd day of February 2013, comes on for consideration the **Magistrate Judge's Report and Recommendation** (document #20), filed on January 30, 2013, to which no objections have been made. The Court, being well and sufficiently advised, finds and orders as follows:

1. Plaintiff Jim Geuss appealed the Social Security Administration Commissioner's denial of benefits and obtained a judgment in his favor. Mr. Geuss then moved for an award of attorney's fees and costs pursuant to the Equal Access to Justice Act (EAJA), 28 U.S.C. § 2412(d). The matter was reviewed by Magistrate Judge Erin L. Setser and is now before the Court on her Report and Recommendation.

2. Mr. Geuss requests compensation as follows:

* For work performed in 2010, 150 minutes (or 2.5 hours)² at the rate of \$172 per hour;

¹As of February 14, 2013, Carolyn W. Colvin became the Acting Social Security Commissioner. Pursuant to Fed. R. Civ. P. 25(d)(1), Carolyn W. Colvin has been substituted for Commissioner Michael Astrue as the defendant in this matter.

²In his itemized statement, Mr. Geuss incorrectly converts 150 minutes to 2.75 hours.

- * For work performed in 2011, 920 minutes (or 15.33 hours)³ at the rate of \$173 per hour;
- * For work performed in 2012, 260 minutes (or 4.33 hours)⁴ at the rate of \$180 per hour;
- * For the cost of service, \$22.84; and
- * For the cost of copies, \$100.25.

3. The Commissioner disputes the total number of attorney hours and the costs requested. Specifically, the Commissioner asks that the following be excluded from Mr. Geuss's compensation:

- * From work performed in 2010, 45 minutes (consisting of 15 minutes on December 13 and 30 minutes on December 28);
- * From work performed in 2011, 155 minutes (consisting of 30 minutes on January 10, 15 minutes on January 12, 20 minutes on January 12, 60 minutes on January 13, and 30 minutes on April 8);
- * From work performed in 2012 for preparation of the EAJA bill, 180 minutes; and
- * The cost of copies (\$100.25).

4. The Magistrate Judge found -- and the Court agrees -- that Mr. Geuss's requested rates (\$172 per hour for work performed in 2010, \$173 per hour for work performed in 2011, and \$180 per hour for work performed in 2012) are appropriate in this instance.

5. The Magistrate Judge further found the deductions requested by the Commissioner to be appropriate, and the Court

³In his itemized statement, Mr. Geuss incorrectly converts 920 minutes to 15.34 hours.

⁴In his itemized statement, Mr. Geuss incorrectly adds up the total minutes worked in 2012 to equal 240 minutes (or 4.00 hours).

likewise agrees.

6. Based on the foregoing, Mr. Geuss will be awarded his attorney's fees and costs as follows:

* For work performed in 2010,
150 minutes
- 45 minutes
105 minutes (or 1.75 hours)

1.75 hours
x \$172.00
\$301.00

* For work performed in 2011,
920 minutes
- 155 minutes
765 minutes (or 12.75 hours)

12.75 hours
x \$173.00
\$2205.75

* For work performed in 2012,
260 minutes
- 180 minutes
80 minutes (or 1.33 hours)

1.33 hours
x \$180.00
\$240.00

* For the cost of service, \$22.84.

Therefore, the total award for attorney's fees and costs will be **\$2,769.59.**

IT IS THEREFORE ORDERED that the **Magistrate Judge's Report and Recommendation** (document #20) is **adopted as modified.**

IT IS FURTHER ORDERED that **Plaintiff's Request for EAJA**

Attorney Fees and Costs (document #16) is **granted** as described herein. Judgment will be entered under separate order.

IT IS SO ORDERED.

/s/ Jimm Larry Hendren
JIMM LARRY HENDREN
UNITED STATES DISTRICT JUDGE