

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLORADO**

Civil Action No. 15-cv-00308-WYD

RICHARD BURNELL,

Plaintiff,

vs.

CAROLYN W. COLVIN, Acting Commissioner of Social Security,

Defendant.

**ORDER GRANTING THE PARTIES'
STIPULATED MOTION FOR FEES UNDER THE EQUAL ACCESS TO JUSTICE ACT**

The parties' Stipulated Motion for Fees Under the Equal Access to Justice Act (ECF No. 21) is GRANTED.

Defendant shall pay Plaintiff \$3,985.00 in attorney fees. Payment of this amount shall constitute a complete release from and bar to any and all claims Plaintiff may have relating to EAJA fees in connection with this action. However, the EAJA award is without prejudice to Plaintiff's attorney's right to seek attorney fees pursuant to Social Security Act § 206(b), 42 U.S.C. § 406(b), subject to the offset provisions of the EAJA. *See* 28 U.S.C. § 2412(c)(1) (2006).

Under *Astrue v. Ratliff*, 130 S.Ct 2521, 2528-29 (2010), EAJA fees awarded by this Court belong to the Plaintiff and are subject to offset under the Treasury Offset Program (31 U.S.C. § 3716(c)(3)(B) (2006)). Thus, fees should be paid to Plaintiff. However, Plaintiff assigned his right to EAJA fees to his attorney. Thus, if, after receiving the Court's EAJA fee 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. However, if there is a debt owed under the Treasury Offset Program, the Commissioner will pay the remaining EAJA fees after offset by a check made out to Plaintiff but delivered to Plaintiff's attorney.

Dated: August 27, 2015

BY THE COURT:

/s/ Wiley Y. Daniel

WILEY Y. DANIEL,
SENIOR UNITED STATES DISTRICT JUDGE