

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLORADO
Judge Philip A. Brimmer

Civil Action No. 16-cv-00689-PAB

TERRI L. WAGNER,

Plaintiff,

v.

NANCY A. BERRYHILL, Acting Commissioner of Social Security,

Defendant.

ORDER

This matter comes before the Court on the parties' Joint Stipulation for EAJA Fees [Docket No. 23]. The parties stipulate to an award of \$6,800.00 in attorney's fees under the Equal Access to Justice Act ("EAJA"), 28 U.S.C. § 2412, and the parties agree that the fees must be paid to plaintiff. Docket No. 23 at 1-2. The EAJA statute provides that "a court shall award to a prevailing party . . . fees and other expenses . . . incurred by that party in any civil action . . ., including proceedings for judicial review of agency action, brought by or against the United States . . ., unless the court finds that the position of the United States was substantially justified or that special circumstances make an award unjust." 28 U.S.C. § 2412(d)(1)(A). The Court has reviewed the pleading and is fully advised of the premises.

Accordingly, it is

ORDERED that the parties' Joint Stipulation for EAJA Fees [Docket No. 23] is **GRANTED**. Defendant is ordered to pay the amount of \$6,800.00 to plaintiff for

attorney's fees under the EAJA, 28 U.S.C. § 2412(d). It is further

ORDERED that this award is without prejudice to the right of plaintiff's counsel to seek attorney fees under section 206(b) of the Social Security Act, 42 U.S.C. § 406(b), subject to the offset provisions of the EAJA. It is further

ORDERED that the EAJA attorney fee award shall be made payable to plaintiff and mailed to plaintiff's attorney pursuant to *Manning v. Astrue*, 510 F.3d 1246, 1251 (10th Cir. 2007). It is further

ORDERED that, if it is determined upon effectuation of this Order that plaintiff does not owe a debt that is subject to offset under the Treasury Offset Program, and the Commissioner agrees to accept the assignment, the fee awarded herein shall be made payable to plaintiff's attorney. If there is such a debt, any fee remaining after offset will be payable to plaintiff and delivered to plaintiff's attorney.

DATED June 26, 2017.

BY THE COURT:

s/Philip A. Brimmer
PHILIP A. BRIMMER
United States District Judge