

UNITED STATES DISTRICT COURT  
MIDDLE DISTRICT OF FLORIDA  
ORLANDO DIVISION

ELLEN ANN SPENCER,

Plaintiff,

v.

Case No: 6:13-cv-417-Orl-TBS

COMMISSIONER OF SOCIAL  
SECURITY,

Defendant.

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**ORDER**

Pending before the Court is Plaintiff's Uncontested Petition for Attorney's Fees. (Doc. 19). On February 21, 2014, the Court entered an Order reversing and remanding this cause back to the Commissioner of Social Security for further proceedings pursuant to sentence four of 42 U.S.C. § 405(g). (Doc. 17). On February 24, 2014, the Clerk entered judgment. (Doc. 18). Plaintiff filed this application for attorney's fees on April 16, 2014. (Doc. 19). Pursuant to M.D. FLA. R. 3.01(g), counsel for Plaintiff represents that he has conferred with Defendant's attorney, who has no objection to the requested relief.

Plaintiff requests an award of fees in the amount of \$3,983.10, and costs in the amount of \$350 pursuant to the Equal Access to Justice Act ("EAJA"), 28 U.S.C. §2412(d). Under the EAJA, a claimant is eligible for an attorney fee award where: (1) the claimant is a prevailing party in a non-tort suit involving the United States; (2) the Government's position was not substantially justified; (3) the claimant filed a timely application for attorney's fees; (4) the claimant had a net worth of less than \$2 million at

the time the complaint was filed; and (5) there are no special circumstances which would make the award of fees unjust. 28 U.S.C. § 2412(d).

Plaintiff asserts that she is the prevailing party in this litigation, that the Commissioner's position in the underlying action was not substantially justified, and that her net worth at the time this proceeding was filed was less than two million dollars. (Doc. 19 at 2). The schedule of hours attached to her petition confirms her attorney's claimed hours. (Doc. 19 at 12-13).

Plaintiff has attached a copy of her assignment of EAJA fees to her counsel. (Doc. 19-1). In light of the assignment, she requests that payment be made payable to her and delivered to her counsel unless Plaintiff owes a federal debt. If the U.S. Department of the Treasury determines that Plaintiff does not owe a federal debt, the Government will accept Plaintiff's assignment of EAJA fees and pay fees directly to her counsel.

Pursuant to the provisions of the EAJA, the Court **GRANTS** Plaintiff's petition for attorney's fees (Doc. 23) and awards attorney's fees in the amount of **\$3,983.10** in fees and **\$350** in costs to be paid out of the judgment fund and to Plaintiff's counsel if the Commissioner determines that Plaintiff does not owe a debt to the Government.

**DONE and ORDERED** in Orlando, Florida on April 17, 2014.



THOMAS B. SMITH  
United States Magistrate Judge

Copies furnished to Counsel of Record