

UNITED STATES DISTRICT COURT  
MIDDLE DISTRICT OF FLORIDA  
ORLANDO DIVISION

OLIVIA ANN SHENKER,

Plaintiff,

v.

Case No: 6:14-cv-1488-Orl-TBS

COMMISSIONER OF SOCIAL  
SECURITY,

Defendant.

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**ORDER**

Pending before the Court is Plaintiff's Unopposed Motion for Award of Attorney's Fees Pursuant to the Equal Access to Justice Act, 28 U.S.C. § 2412 (Doc. 20). On November 20, 2015, the Court entered an Order reversing the Commissioner's final decision and remanding the case for further proceedings (Doc.18). On November 23, 2015, the Clerk entered Judgment (Doc. 19). Plaintiff filed this application for attorney's fees on December 18, 2015. (Doc. 20). The Commissioner has no objection to the relief requested in the motion (Id., at 3).

Plaintiff requests an award of fees in the amount of \$4,083.75 under the Equal Access to Justice Act ("EAJA"). The EAJA provides that 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. 20 at 1). Plaintiff requests payment at the rate of \$165 per hour which is less than the maximum rate allowed by law for the services rendered (Id., at 3). Counsel's time records show that he expended a total of 24.75 hours on this matter (Doc. 20-1). The Court finds this amount of hours reasonable.

Plaintiff has attached a copy of her assignment of EAJA fees to her counsel. (Doc. 20-4). In light of the assignment, Plaintiff requests that payment be made payable to her and delivered to her attorney 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 attorney.

Pursuant to the provisions of 28 U.S.C. §2412(d), the Court **GRANTS** Plaintiff's motion and awards her attorney's fees in the amount of **\$4,083.75** to be paid out of the judgment fund to Plaintiff's counsel if the Department of the Treasury determines that Plaintiff does not owe a debt to the Government.

**DONE and ORDERED** In Orlando, Florida on December 18, 2015.



THOMAS B. SMITH  
United States Magistrate Judge

Copies furnished to Counsel of Record