

**UNITED STATES DISTRICT COURT  
MIDDLE DISTRICT OF FLORIDA  
TAMPA DIVISION**

**ANN MARIE SMITH,**

**Plaintiff,**

v.

**Case No.: 8:16-cv-1024-T-AAS**

**NANCY A. BERRYHILL, acting  
Commissioner of Social Security,<sup>1</sup>**

**Defendant.**

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**ORDER**

This cause comes before the Court on Plaintiff's **Petition for Attorney Fees** (Doc. 24).

Plaintiff seeks attorney's fees in the amount of \$6,407.29 pursuant to the Equal Access to Justice Act ("EAJA"), 28 U.S.C. § 2412. Plaintiff asks for \$5,626.25 in fees for work performed on the case in 2016, calculated at a rate of \$192.68 per hour for 29.20 hours and \$781.04 in fees for work performed on the case in 2017, calculated at a rate of \$195.26 per hour for 4 hours.<sup>2</sup>

The Court entered an Order reversing and remanding the case under sentence four of 42 U.S.C. § 405(g) to the Commissioner for further administrative proceedings. (Doc. 22). The Clerk entered judgment in favor of Plaintiff thereafter. (Doc. 23). As the prevailing party, Plaintiff now requests an award of fees. *See* 28 U.S.C. § 2412(a)(1) & (d)(1)(A). As judgment for Plaintiff was

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<sup>1</sup> Between the filing of this suit and the entry of this Order, Nancy A. Berryhill became the acting Commissioner. As such, Ms. Berryhill is "automatically substituted as a party." Fed. R. Civ. P. 25(d).

<sup>2</sup> The undersigned finds the hourly rates requested reasonable in light of the Consumer Price Index Inflation Calculator. *See* 28 U.S.C. § 2412(d)(2)(A) ("[A]ttorney fees shall not be awarded in excess of \$125 per hour unless the court determines that an increase in the cost of living . . . justifies a higher fee.").

entered on August 11, 2017, and Plaintiff's Petition for Attorney Fees was filed on October 13, 2017, the Court has jurisdiction to award the requested fees.<sup>3</sup> See 28 U.S.C. § 2412(d)(1)(B).

Plaintiff states that the Commissioner does not oppose the requested relief. (Doc. 24, p. 1). After issuance of an order awarding EAJA fees, however, the United States Department of the Treasury will determine whether Plaintiff owes a debt to the government. If Plaintiff has no discernable federal debt, the government will accept Plaintiff's assignment of EAJA fees and pay the fees directly to Plaintiff's counsel. (Doc. 24, Ex. 2).

For the reasons set out in Plaintiff's motion, therefore, it is hereby **ORDERED**:

1. Plaintiff's Petition for Attorney Fees (Doc. 24) is **GRANTED**.
2. Plaintiff is awarded **\$6,407.29** in attorney's fees pursuant to the EAJA.

**DONE AND ORDERED** in Tampa, Florida, on this 16th day of October, 2017.



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AMANDA ARNOLD SANSONE  
United States Magistrate Judge

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<sup>3</sup> The sixty-day appeal period expired on October 10, 2017. Plaintiff's deadline for filing a petition for EAJA fees is November 9, 2017.