

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
TAMPA DIVISION

REBECCA MITCHELL,

Plaintiff,

v.

Case No.: 8:16-cv-1814-T-AAS

NANCY A. BERRYHILL, acting
Commissioner of Social Security,¹

Defendant.

ORDER

This cause comes before the Court on Plaintiff's **Petition for Attorney Fees** (Doc. 24) and the Commissioner's **Response in Opposition** (Doc. 26).

Plaintiff seeks attorney's fees in the amount of \$4,316.88² pursuant to the Equal Access to Justice Act ("EAJA"), 28 U.S.C. § 2412. Plaintiff asks for \$606.94 in fees for work performed on the case in 2016, calculated at a rate of \$192.68 per hour for 3.15 hours and \$3,709.94 in fees for work performed on the case in 2017, calculated at a rate of \$195.26 per hour for 19 hours.³

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

¹ 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).

² Plaintiff's Petition lists \$4,317.02 as the total amount requested in attorneys' fees. (Doc. 24). However, that appears to be a calculation error as the sum of the \$997.46 asked for Michael Steinberg and the \$3,319.42 asked for attorney Martin J. Cohen is \$4,316.88.

³ 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 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 entered on June 23, 2017, and Plaintiff's Petition for Attorney Fees was filed on September 13, 2017, the Court has jurisdiction to award the requested fees.⁴ *See* 28 U.S.C. § 2412(d)(1)(B).

The Commissioner filed a Response to Plaintiff's Petition objecting to some of the hours expended by Plaintiff's counsel. (Doc. 26). After a review of the Commissioner's objections and the fees requested by Plaintiff, the Court finds all of the fees requested by Plaintiff reasonable. 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. 3).

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 **\$4,316.88** in attorney's fees pursuant to the EAJA.

DONE AND ORDERED in Tampa, Florida, on this 6th day of October, 2017.



AMANDA ARNOLD SANSONE
United States Magistrate Judge

⁴ The sixty-day appeal period expired on August 22, 2017. Plaintiff's deadline for filing a petition for EAJA fees is September 21, 2017.