

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF FLORIDA

CASE NO. 09-20680-CIV-SEITZ/DUBÉ

OMAR A. TABOADA,

Plaintiff,

v.

MICHAEL J. ASTRUE,  
Commissioner of Social Security,

Defendant.

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**REPORT AND RECOMMENDATION**

THIS CAUSE is before this Court on the Petition for Attorney's Fee filed by the Plaintiff (D.E. #31) pursuant to an Order of Reference entered by the Honorable Patricia A. Seitz, United States District Judge. This Court has reviewed the motion, the response by the Government and the file in this cause.

On November 24, 2009, an Order was entered by Judge Seitz adopting a Report and Recommendation by this Court and reversing and remanding this cause for further proceedings. (D.E. #29).

The present motion seeks an award of fees pursuant to the Equal Access to Justice Act. The motion indicates that 25.75 hours were spent on this case at the rate of \$175.00, for a total fee recovery sought of \$4,506.25. The response by the Government indicates no objection to an award of attorney's fee in the amount of \$4,506.25 pursuant to the Equal Access to Justice Act, 28 U.S.C. §2412, payable to counsel for the Plaintiff.

This Court finds that the amount for attorney's fee is reasonable and that the Plaintiff should

be awarded the sum of \$4,506.25 for attorney's fee.

Accordingly, based on the foregoing, it is the recommendation of this Court that the Petition for Attorney's Fee (D.E. #31) be **GRANTED** and that counsel for the Plaintiff be awarded the sum of **\$4,506.25** pursuant to the EAJA.

Pursuant to Local Magistrate Rule 4(b), the parties have fourteen (14) days from service of this Report and Recommendation to serve and file written objections, if any, with the Honorable Patricia A. Seitz, United States District Judge. Failure to file timely objections shall bar the parties from attacking on appeal the factual findings contained herein. Loconte v. Dugger, 847 F.2d 745 (11th Cir. 1988), cert. denied, 488 U.S. 958 (1988); R.T.C. v. Hallmark Builders, Inc., 996 F.2d 1144, 1149 (11th Cir. 1993).

**DONE AND ORDERED** this 8<sup>th</sup> day of January, 2010.

  
ROBERT L. DUBÉ  
UNITED STATES MAGISTRATE JUDGE