

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF LOUISIANA**

RHEALINDA D. MARCELIN

CIVIL ACTION

VERSUS

NO. 16-14075

**NANCY A. BERRYHILL, ACTING
COMMISSIONER OF THE SOCIAL
SECURITY ADMINISTRATION**

SECTION: "E"

ORDER

Plaintiff Rhealinda Marcelin brought this civil action seeking judicial review of the decision of the Social Security Administration to terminate her Supplemental Security Income and Social Security disability assistance.¹ On September 8, 2017, the Court issued an order adopting the Report and Recommendations of the Magistrate Judge, and remanding the case to the Social Security Administration on the grounds that the Administrative Law Judge failed to properly consider Plaintiff's condition at the time she had last been certified as disabled.²

Plaintiff filed a motion on December 6, 2017, seeking attorney's fees under the Equal Access to Justice Act ("EAJA").³ Plaintiff seeks attorneys' fees in the amount of \$7,962.50 for 45.5 hours of time at an hourly rate of \$175.00.⁴ The EAJA provides that "a court may award reasonable fees and expenses of attorneys . . . to the prevailing party in any civil action brought . . . against . . . any agency or official of the United States acting in his or her official capacity in any court having jurisdiction of such action," unless the court finds that the government's position "was substantially justified or that other special

¹ R. Doc. 1.

² R. Doc. 25.

³ R. Doc. 30. *See* 28 U.S.C. 2412(d) (2012).

⁴ R. Doc. 30-1 at 8.

circumstances make an award unjust.”⁵ EAJA fees are awardable in Social Security actions.⁶ In a motion for attorneys’ fees under the EAJA, The government has the burden of proving that its position was “substantially justified” or that an award would be unjust.⁷

In this case, the motion is unopposed.⁸ The Commissioner does not dispute (1) Plaintiff is a prevailing party, (2) this Court has jurisdiction, (3) the motion is timely, or (4) the amount of attorneys’ fees sought.⁹

Accordingly, the Court **HEREBY GRANTS** Plaintiff’s motion for attorneys’ fees under the Equal Access to Justice Act.¹⁰

New Orleans, Louisiana, this 22nd day of January, 2018.



SUSIE MORGAN
UNITED STATES DISTRICT JUDGE

⁵ *Id.*

⁶ *Sullivan v. Hudson*, 490 U.S. 877 (1989).

⁷ *Martin v. Heckler*, 754 F.2d 1262, 1264 (5th Cir. 1985).

⁸ R. Doc. 32.

⁹ *Id.* at 1.

¹⁰ R. Doc. 30.