

UNITED STATES DISTRICT COURT  
MIDDLE DISTRICT OF LOUISIANA

DALE ANTHONY STELLY

CIVIL ACTION

VERSUS

NUMBER 09-711-SCR

MICHAEL J. ASTRUE,  
COMMISSIONER OF SOCIAL  
SECURITY ADMINISTRATION

**RULING ON APPLICATION FOR ATTORNEY'S FEES AND COSTS**

Before the court is the plaintiff's Application for Attorney's Fees and Costs Under the Equal Access to Justice Act. Record document number 16. Defendant filed a response.<sup>1</sup>

In his Equal Access to Justice Act (EAJA), 28 U.S.C. § 2412, application, the plaintiff seeks a total of \$3,341.25 in attorney's fees and \$350.00 in court costs. In his response to the plaintiff's application the Commissioner stated that he has no opposition to the total amount of fees and costs sought by the plaintiff.

A review of the fee application shows that it was timely filed, the prerequisites for an award of fees under the EAJA, are satisfied and the amount of fees and costs requested by the plaintiff are reasonable.<sup>2</sup>

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<sup>1</sup> Record document number 17.

<sup>2</sup> The amount of attorney's fees requested represents a total of 22.275 hours expended for work before the court at an hourly rate of \$150 per hour. The hourly rate of \$150 exceeds by \$25 the  
(continued...)

Accordingly, the plaintiff's Application for Attorney's Fees and Costs Under the Equal Access to Justice Act is granted. Plaintiff is awarded attorney's fees in the amount of \$3,341.25. Under 28 U.S.C. § 1920 the plaintiff is awarded costs in the amount of \$350.

Baton Rouge, Louisiana, March 15, 2011.



STEPHEN C. RIEDLINGER  
UNITED STATES MAGISTRATE JUDGE

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<sup>2</sup>(...continued)

\$125 cap on hourly rates set forth in 28 U.S.C. § 2412(d)(2)(A). Plaintiff requested the increase based on an increase in the cost of living since the EAJA was amended in 1996 and the limited availability of attorneys to represent claimants who appeal to the district court. The court approves the requested \$150 hourly rate because it is a reasonable rate and the Commissioner does not oppose it, but does not make a specific finding that the higher hourly rate is justified under 28 U.S.C. § 2412(d)(2)(A) for the reasons urged by the plaintiff.