

EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

CORNELL ELMS,

Plaintiff

Civil Action No. 16-10180

v.

U.S. District Judge
HON. R. STEVEN WHALEN
U.S. Magistrate JudgeCOMMISSIONER OF SOCIAL
SECURITY,

Defendant.

**ORDER GRANTING MOTION TO AMEND ORDER
GRANTING PETITION FOR EAJA FEES**

On April 9, 2019, the Court entered an Opinion and Order granting Plaintiff's motion for attorney fees and costs under the Equal Access to Justice Act ("EAJA"), 28 U.S.C. § 2412(d)(1)(A) [Doc. #39]. Defendant has filed a motion to amend or correct that order [Doc. #41], pointing to an error in calculating the number of attorney hours expended in 2016.

Defendant is correct that there is a calculation error in the previous order, in which the Court mistakenly assigned a total of 45 hours to 1916, at \$187.02 per hour (47 hours claimed reduced by 2 hours). In fact, Plaintiff claimed 35.45 hours for 2016. *See* Plaintiff's motion [Doc. #31] at p. 11. Reduced by 2 hours, this leaves 33.45 hours at 187.02 per hour, or \$6,255.82 for 2016, rather than the \$8,415.90 mistakenly awarded.

The fee award for 2017 was \$3,849.72. Adding the correct amount for 2016 (\$6,255.82), this leaves a total attorney fee amount of \$10,105.54.

Accordingly, pursuant to Fed.R.Civ.P. 59(e), which “allow[s] the district court to correct its own errors,” *York v. Tate*, 858 F.2d 322, 326 (6th Cir. 1988), Defendant’s motion [Doc. #41] is GRANTED.

The Opinion and Order entered on April 9, 2019 [Doc. #39] is AMENDED AND CORRECTED as follows:

Fees and expenses under EAJA are awarded to Plaintiff Cornell Elms as follows:

Attorney Fees: \$10,105.54

Expenses: \$60.75

The attorney fees will be paid directly to Plaintiff Cornell Elms. Within three weeks of the date of this Order, the government will determine if Mr. Elms owes it any pre-existing debt. If he does, then the EAJA fees will be offset by the amount of that debt, with the remainder being paid directly to Mr. Elms. If he does not owe a pre-existing debt, the entire amount of the EAJA attorney fee award will be paid to Mr. Elms.

IT IS SO ORDERED.

s/R. Steven Whalen
R. STEVEN WHALEN
UNITED STATES MAGISTRATE JUDGE

Dated: April 29, 2019

CERTIFICATE OF SERVICE

I hereby certify on April 29, 2019 that I electronically filed the foregoing paper with the Clerk of the Court sending notification of such filing to all counsel registered electronically. I hereby certify that a copy of this paper was mailed to non-registered ECF participants on April 29, 2019.

s/Carolyn M. Ciesla
Case Manager for the
Honorable R. Steven Whalen