

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF MISSOURI  
EASTERN DIVISION

MARILYN CUMMINGS,	)	
	)	
Plaintiff,	)	
	)	
vs.	)	Case No. 4:13CV1845 CDP
	)	
CAROLYN W. COLVIN,	)	
Acting Commissioner of Social Security	)	
	)	
Defendant.	)	

**MEMORANDUM AND ORDER**

This matter is before the Court on Marilyn Cummings's Application for Attorney's Fees under the Equal Access to Justice Act (EAJA), 28 U.S.C. § 2412.

This Court granted the government's motion to reverse and remand the case to the Commissioner for further proceedings pursuant to sentence four of 42 U.S.C. § 405(g). ECF Doc. 23. Plaintiff now seeks an award of attorney's fees in the amount of \$4,721.75, representing 25 hours of attorney work at \$188.87 per hour and requests that the attorney's fees be paid directly to plaintiff's attorneys.<sup>1</sup> Defendant has no objection to payment of the attorney's fees in the requested amount of \$4,721.75. However, defendant requests that the Court enter

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<sup>1</sup> This rate is based upon a cost-of-living adjustment to the statutory rate of \$125 per hour. *See* 28 U.S.C. § 2412(d)(2)(A); United States Department of Labor, Bureau of Labor Statistics, Consumer Price Index Inflation Calculator, *available at* [http://www.bls.gov/data/inflation\\_calculator.htm](http://www.bls.gov/data/inflation_calculator.htm).

an order awarding the attorney's fees payable by the Social Security Administration to plaintiff, rather than plaintiff's attorneys, in accordance with *Astrue v. Ratliff*, 560 U.S. 586 (2010).

Because plaintiff is the prevailing party and there are no circumstances in this case that would make an award under the EAJA unwarranted, this court finds that plaintiff is entitled to an award in the amount requested. Plaintiff has submitted an affidavit assigning any award of attorney's fees under the EAJA to her counsel of record. An award of attorney's fees to the prevailing party under the EAJA is payable to the plaintiff as the litigant and is "subject to a [g]overnment offset to satisfy a pre-existing debt that the litigant owes the United States." *Id.* at 589. Therefore, the court will direct the defendant to make plaintiff's award of attorney's fees payable to plaintiff's attorneys, subject to any pre-existing debt plaintiff owes to the United States.

Accordingly,

**IT IS HEREBY ORDERED** that plaintiff's Motion for Attorney's Fees under the Equal Access to Justice Act [# 25] is **GRANTED** and plaintiff is awarded attorney's fees in the amount of \$4,721.75.

**IT IS FURTHER ORDERED** that the Social Security Administration shall pay attorney's fees in the amount of \$4,721.75, paid directly to plaintiff's attorney, Traci L. Severs, Dennis W. Fox and Associates, subject to any pre-existing debt

that the plaintiff owes to the United States. The payment shall be mailed to plaintiff's attorney, Traci L. Severs, Dennis W. Fox and Associates, 211 N. Broadway, Suite 2400, St. Louis, MO 63102.

  
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CATHERINE D. PERRY  
UNITED STATES DISTRICT JUDGE

Dated this 12th day of June, 2014.