

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEBRASKA

SHIRLENE G. PACE SMITH,)	
)	
Plaintiff,)	4:08CV3264
)	
v.)	
)	
MICHAEL J. ASTRUE, Commissioner of Social Security,)	ORDER
)	
Defendant.)	
_____)	

This matter is before the court on plaintiff's motion for attorney fees, Filing No. [20](#). Plaintiff moves for fees under the Equal Access to Justice Act ("EAJA"), [28 U.S.C. § 2412\(d\)](#) for 10.4 hours of work at a rate of \$125.00, for a total of \$1,300.00. Defendant has filed a response indicating that it has no objection to a fee amount of \$1,300.00 pursuant to the EAJA. Filing No. [23](#). However, defendant notes that this amount is subject to any offset to satisfy any preexisting debt that the plaintiff might owe to the United States. See [Astrue v. Ratliff, 130 S. Ct. 2521, 2527 \(2010\)](#).¹

The court finds the plaintiff is entitled to an award pursuant to 42 U.S.C. § 405(g) as a prevailing party in this action. See [Shalala v. Schaefer, 509 U.S. 292, 302 \(1993\)](#). The court further finds that the request is reasonable as to hourly amount and hours spent. Payment in the amount of \$1,300.00 shall be paid directly to attorney James Schneider, with the understanding that any payment of the attorney fees by the claimant pursuant to

¹Plaintiff states the following in this regard: "Plaintiff has signed an affidavit assigning any fee under the EAJA to Plaintiff's attorney. Following an order by this Court awarding an EAJA fee to Plaintiff, Defendant will verify whether Plaintiff owes a debt to the United States that is subject to offset. If there is no debt owed by Plaintiff, the fee will be made payable to Plaintiff's attorney based on the assignment." Filing No. [23](#), at n.1.

[42 U.S.C. § 406\(b\)](#) will be reduced by the amount of the fee authorized under the EAJA and will be reduced by any qualifying offset.

THEREFORE, IT IS ORDERED that plaintiff's motion for payment of attorney fees, Filing No. [20](#), is granted. Payment in the amount of \$1,300.00, minus any authorized deductions, shall be paid directly to attorney James Schneider as set forth herein.

DATED this 1st day of October, 2010.

BY THE COURT:

s/ Joseph F. Bataillon
Chief United States District Judge

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