

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEBRASKA

STEVEN SWANBERG,)
)
 Plaintiff,)
)
 v.)
)
 MICHAEL J. ASTRUE,)
 Commissioner of the)
 Social Security Administration,)
)
 Defendant.)

8:07CV420

**MEMORANDUM
AND ORDER**

This matter is before the court upon Plaintiff's application for attorney fees pursuant to the Equal Access to Justice Act, 28 U.S.C. § 2412 ([filing 30](#)). Plaintiff requests fees in the total amount of \$2,283.75, which represents 13.05 hours of work by his attorney, at an average hourly rate of \$175.00.¹ Defendant does not oppose Plaintiff's application. See [filing 32](#).

The court has determined that Plaintiff was indeed the prevailing party in this action, as the Commissioner's decision was reversed and matter remanded for further proceedings; that the application for fees was filed in a timely fashion; and that the position of the Commissioner was not substantially justified. Plaintiff therefore is entitled to an award of reasonable attorney fees.

Accordingly,

¹ This average hourly rate equals the statutory maximum of \$125.00, adjusted on a monthly basis to account for inflation since March 1996.

IT IS ORDERED that:

1. Plaintiff's application for attorneys fees pursuant to the Equal Access to Justice Act ([filing 30](#)) is granted; and

2. By separate document, the court shall enter judgment for Plaintiff and against Defendant, providing that Plaintiff is awarded attorney fees of \$2,283.75.

October 2, 2008

BY THE COURT:

s/ Richard G. Kopf
United States District Judge