

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW MEXICO**

ROGER M. SERAFIN,

Plaintiff,

vs.

No. CV 16-283 CG

CAROLYN W. COLVIN,
Acting Commissioner of the Social
Security Administration,

Defendant.

**ORDER AWARDING ATTORNEY FEES AND COSTS PURSUANT TO
THE EQUAL ACCESS TO JUSTICE ACT, 28 U.S.C. § 2412(d)**

THIS MATTER is before the Court on Plaintiff's *Unopposed Motion for Attorney Fees and Costs Pursuant to the Equal Access to Justice Act*, (Doc. 28), filed July 12, 2017, in which the parties stipulate to an award of \$7,000 in attorney fees and \$400.00 in costs.

IT IS THEREFORE ORDERED that Plaintiff be awarded \$7,000 in attorney fees and \$400.00 in costs pursuant to the Equal Access to Justice Act, 28 U.S.C. § 2412(d). See *Astrue v. Ratliff*, 560 U.S. 586, 591–93 (2010) (providing EAJA fees are paid to the prevailing party, not the attorney).

IT IS FURTHER ORDERED that if Plaintiff's counsel receives attorney fees under both the EAJA and 42 U.S.C. § 406(b), Section 206(b) of the Social Security Act, Plaintiff's counsel shall refund the smaller award to Plaintiff pursuant to *Weakley v. Bowen*, 803 F.2d 575, 580 (10th Cir. 1986).

IT IS SO ORDERED.



THE HONORABLE CARMEN E. GARZA
UNITED STATES MAGISTRATE JUDGE