

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

RUBEN AUGUSTINE GOMEZ,

Plaintiff,

v.

No. CV 16-959 WJ/CG

NANCY A. BERRYHILL,
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 *Stipulation of Award of Attorney Fees Under the Equal Access to Justice Act*, (Doc. 31), filed November 7, 2017, in which the parties stipulate to an award of \$7,500 in attorney fees.

IT IS THEREFORE ORDERED that Plaintiff be awarded \$7,500 in attorney fees 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