## UNITED STATES DISTRICT COURT DISTRICT OF NEW MEXICO

ALICE D. SALAZAR,

Plaintiff,

v. Civ. No. 16-1134 GJF

NANCY A. BERRYHILL,

Acting Commissioner of the Social Security Administration,

Defendant.

## **ORDER GRANTING ATTORNEY FEES**

This matter is before the Court on the parties' "Joint Stipulation to Attorney's Fees" ("Stipulation"). ECF No. 27. Having considered the record, relevant law, and the stipulations of the parties, **IT IS HEREBY ORDERED**:

- 1. Defendant will pay Plaintiff a total of \$7,500.00 in fees pursuant to the Equal Access to Justice Act ("EAJA"), 28 U.S.C. § 2412 *et seq.* This amount is payable to Plaintiff, not directly to his counsel. *See Astrue v. Ratliff*, 560 U.S. 586, 591-93 (2010). Plaintiff's payment will be remitted to the office of her attorney, Francesca J. McDowell.
- 2. Defendant's payment of this amount is without prejudice to Plaintiff's counsel's right to seek attorney fees under section 406(b) of the Social Security Act, 42 U.S.C. § 406(b), subject to the offset provisions of the EAJA.
- 3. If Plaintiff's counsel receives attorney fees under both the EAJA and 42 U.S.C. § 406(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 GREGORY J. FOURATT UNITED STATES MAGISTRATE JUDGE Presiding by Consent