

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

JOSHUA HANKE,

Plaintiff,

vs.

Civil No.

16-1157 WPL

**NANCY A. BERRYHILL, Acting
Commissioner of the Social Security
Administration,**

Defendant.

**ORDER FOR THE AWARD OF ATTORNEY FEES PURSUANT
TO THE EQUAL ACCESS TO JUSTICE ACT, 28 U.S.C. § 2412(D)**

THIS MATTER is before the Court on the Stipulated Motion for Attorney Fees Pursuant to the Equal Access to Justice Act filed on October 31, 2017. [Doc. 26]. The parties have stipulated to EAJA fees in the amount of \$7,048.50 for work performed in 2016 and 2017. The Court being otherwise fully advised in the premises, **FINDS** that the motion is well-taken and will be GRANTED.

IT IS THEREFORE ORDERED THAT the motion is **GRANTED**, and Plaintiff is awarded \$7,048.50 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) (EAJA fees are paid to the prevailing party, not the attorney).

Payment of this amount shall constitute a complete release from and bar to any and all claims Plaintiff may have relating to EAJA fees in connection with this action. The parties further agree that the EAJA award is without prejudice to Plaintiff's attorney's right to seek

attorney fees pursuant to Social Security Act § 206(b), 42 U.S.C. § 406(b), subject to the offset provisions of the EAJA. See 28 U.S.C. § 2412(c)(1) (2006).

IT IS FURTHER ORDERED THAT, 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.**

October 31, 2017



UNITED STATES CHIEF MAGISTRATE JUDGE

Submitted By:

/s/Michael D. Armstrong

Michael D. Armstrong
Attorney for Plaintiff
220 Adams St. SE, Suite B,
Albuquerque, NM 87108
Bus. (505) 890-9056 Fax. (505) 266-5860

Approval On 10/31/17

Laura Holland
Special Assistant United States Attorney
Office of the General Counsel
Social Security Administration
1961 Stout Street, Ste. 4169
Denver, CO 80294-4003
Telephone: (303) 844-7315
laura.holland@ssa.gov