

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

CARINA BACA,

Plaintiff,

v.

No. CV 17-449 CG

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

Defendant.

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

THIS MATTER is before the Court on Plaintiff's *Stipulated Motion for Attorney Fees Pursuant to the Equal Access to Justice Act*, (Doc. 19), filed March 5, 2018, in which the parties stipulate to an award of \$4,762.80 in attorney fees and that Plaintiff receive \$400.00 in costs from the Judgment fund administered by the U.S. Department of the Treasury.

IT IS THEREFORE ORDERED that Plaintiff be awarded \$4,762.80 in attorney fees pursuant to the Equal Access to Justice Act, 28 U.S.C. § 2412(d), and that Plaintiff be reimbursed costs of \$400.00 from the Judgment Fund administered by the U.S. Department of the Treasury. *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.

A handwritten signature in black ink, appearing to read "Carmen E. Garza", with a long horizontal flourish extending to the right.

THE HONORABLE CARMEN E. GARZA
UNITED STATES CHIEF MAGISTRATE JUDGE