

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

LEO JOE CHAVEZ,

Plaintiff,

v.

No. CV 17-1128 CG

NANCY A. BERRYHILL,
Deputy Commissioner for Operations,
Social Security Administration,

Defendant.

ORDER AWARDING ATTORNEY FEES UNDER EAJA

THIS MATTER is before the Court on Plaintiff's *Stipulated Motion for Attorney Fees Pursuant to the Equal Access to Justice Act*, (Doc. 23), filed October 9, 2018. The Court, having reviewed the Motion, noting it is unopposed, and being otherwise fully advised, finds that the Motion is well-taken and should be **GRANTED**.

IT IS THEREFORE ORDERED that attorney fees be awarded under the Equal Access to Justice Act, 28 U.S.C. § 2412(d), ("EAJA"), payable to Plaintiff in the amount of \$5,660.18. *See Astrue v. Ratliff*, 560 U.S. 586 (2010) (EAJA fees are paid to the prevailing party, not the attorney).

IT IS FURTHER ORDERED THAT, if Plaintiff's counsel receives attorney fees and costs 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).



THE HONORABLE CARMEN E. GARZA
CHIEF UNITED STATES MAGISTRATE JUDGE