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

MANUEL T. CHAVEZ SR.,

Plaintiff,

vs.   **Civil No. 18-483 SMV**

NANCY A. BERRYHILL, Acting
Commissioner of Social Security,

Defendant.

ORDER GRANTING STIPULATED MOTION FOR AWARD OF
ATTORNEY FEES UNDER THE EQUAL ACCESS TO JUSTICE ACT

Plaintiff's Unopposed Motion for Fees Under the Equal Access to Justice Act is

GRANTED. Defendant shall pay Plaintiff $6,000.00 in attorney fees. 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. However, 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).

Under *Astrue v. Ratliff*, 130 S.Ct 2521, 2528-29 (2010), EAJA fees awarded by this Court

belong to the Plaintiff and are subject to offset under the Treasury Offset Program (31 U.S.C. §

3716(c)(3)(B) (2006)). This Court therefore orders the EAJA fees to be paid to Plaintiff. If, after

receiving the Court's EAJA fee order, the Commissioner (1) determines that Plaintiff's counsel

has a valid assignment of fees; (2) determines that Plaintiff does not owe a debt that is subject to

offset under the Treasury Offset Program; and (3) agrees to waive the requirements of the Anti-

Assignment Act, then the EAJA fees will be made payable to Plaintiff's attorney. However, if

there is a debt owed under the Treasury Offset Program, the Commissioner cannot agree to waive

the requirements of the Anti-Assignment Act, and the remaining EAJA fees after offset will be

paid by a check made out to Plaintiff but delivered to Plaintiff's attorney.

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HONORABLE STEPHAN M. VIDMAR
UNITED STATES MAGISTRATE JUDGE

SUBMITTED AND APPROVED BY:

Filed Electronically 6/5/19
MICHAEL D. ARMSTRONG
Attorney for Plaintiff

Electronically Approved 6/5/19
KIRSTEN WESTERLAND
Special Assistant United States Attorney