

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

JOHNNY FRANCISCO LEYBA,

Plaintiff,

v.

No. CV 20-145 CG

ANDREW SAUL,  
Commissioner of the  
Social Security Administration,

Defendant.

**ORDER GRANTING UNOPPOSED MOTION TO AWARD ATTORNEY FEES  
UNDER THE EQUAL ACCESS TO JUSTICE ACT**

**THIS MATTER** is before the Court on Plaintiff's *Unopposed Motion for EAJA Fees* (the "Unopposed Motion"), (Doc. 29), filed January 6, 2021. The Court, having reviewed the Unopposed Motion under the Equal Access to Justice Act ("EAJA"), 28 U.S.C. § 2412, finds the Unopposed Motion is well-taken and shall be granted.

**IT IS THEREFORE ORDERED** that Plaintiff be awarded \$4,346.00 in attorney fees pursuant to EAJA, 28 U.S.C. § 2412, made payable to Plaintiff but mailed to Plaintiff's attorney. *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 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 CARMEN E. GARZA  
CHIEF UNITED STATES MAGISTRATE JUDGE