

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

**MARIA DEL ROSARIO GARCIA DE
MENDOZA,**

Plaintiff,

vs.

CIV. NO. 1:20-00882-SMV

**KILOLO KIJAKAZI,
Acting Commissioner of
Social Security,**

Defendant.

ORDER

Upon consideration of the Stipulated Motion for Award of Attorney Fees Under the Equal Access to Justice Act (EAJA), 28 U.S.C. § 2412, the Court finds the Motion (Dkt. No. 26) should be GRANTED.

IT IS THEREFORE ORDERED that Plaintiff is awarded attorney fees in the amount of \$5,279.60 under the Equal Access to Justice Act, 28 U.S.C. § 2412, made payable to Plaintiff as the prevailing party herein and Plaintiff is also entitled to costs in the amount of \$400.00, which is to be paid from the Department of Justice's Judgment Fund, 28 U.S.C. § 2412, not agency funds.

IT IS FURTHER ORDERED THAT, if Plaintiff's counsel is subsequently awarded any fees pursuant to 42 U.S.C. § 406(b), she must refund the smaller award to Plaintiff pursuant to *Weakley v. Bowen*, 803 F.2d 575, 580 (10th Cir. 1986).

SIGNED November 19, 2021



STEPHAN M. VIDMAR
UNITED STATES MAGISTRATE JUDGE

SUBMITTED AND APPROVED BY:

Electronically submitted November 19, 2021

VICTORIA V. JOHNSON

Special Assistant United States Attorney

Electronically approved November 19, 2021

LAURA JOELLEN JOHNSON

Attorney for Plaintiff