

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

DEBRA ANN SMITH,

Plaintiff,

v.

CV 15-970 JCH/WPL

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

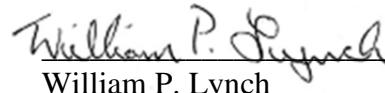
Defendant.

ORDER

This matter is before the Court on the parties' Stipulation of Award of Attorney Fees under the Equal Access to Justice Act (Doc. 35). Having reviewed the Stipulation and the record, I find that an award of fees is appropriate and that the amount of fees requested is reasonable.

IT IS THEREFORE ORDERED THAT the motion is GRANTED and Plaintiff is awarded \$6,850.00 in attorney fees under the Equal Access to Justice Act, 28 U.S.C. § 2412(d). *See Astrue v. Ratliff*, 560 U.S. 586, 591-93 (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).



William P. Lynch
United States Magistrate Judge

Submitted by:

s/ Francesca J. MacDowell

Francesca J. MacDowell

Attorney for Plaintiff

Approved by email on 3/1/17 by:

Meghan Berglind, Special AUSA

Attorney for Commissioner