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

BENITO HERNANDEZ, Jr.,

Plaintiff,

٧.

No. CV 18-135 CG

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

Defendant.

ORDER AWARDING ATTORNEY FEES PURSUANT TO THE EQUAL ACCESS TO JUSTICE ACT, 28 U.S.C. § 2412(d)

THIS MATTER is before the Court on the parties' *Stipulated Motion for Award of Attorney Fees Under the Equal Access to Justice Act*, (Doc. 33), filed February 25, 2019, in which the parties agree to an award of \$6,763.65 in attorney fees.

IT IS THEREFORE ORDERED that Plaintiff be awarded \$6,763.65 in attorney

fees pursuant to the Equal Access to Justice Act, 28 U.S.C. § 2412(d). See Astrue v.

Ratliff, 560 U.S. 586, 591-93 (2010) (providing 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), Section 206(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