

UNITED STATES DISTRICT COURT  
for the  
DISTRICT OF NEW MEXICO

JUAN FRANCISCO QUINTANILLA, JR., |  
|  
Plaintiff, |  
|  
vs. | Case No. 2:20-CV-01264-KRS  
|  
KILOLO KIJAKAZI, |  
Acting Commissioner of Social Security,<sup>1</sup> |  
|  
Defendant. |

**ORDER**

Plaintiff's Stipulated Motion for Fees Under the Equal Access to Justice Act (EAJA) is GRANTED.

Defendant shall pay Plaintiff \$2,152.80 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. Ratiff*, 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 the Plaintiff has properly assigned his right to EAJA fees to his attorney; (2) determines that Plaintiff does not

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<sup>1</sup> Kilolo Kijakazi became the Acting Commissioner of Social Security on July 9, 2021. Pursuant to Rule 25(d) of the Federal Rules of Civil Procedure, Kilolo Kijakazi should be substituted, therefore, for Andrew Saul as the defendant in this suit. No further action need be taken to continue this suit by reason of the last sentence of section 205(g) of the Social Security Act, 42 U.S.C. § 405(g).

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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THE HONORABLE KEVIN R. SWEAZEA  
United States Magistrate Judge

**Respectfully Submitted:**

Attorney for Plaintiff:

Approved via e-mail July 9, 2021  
**JAIME F. RUBIN, Esq.**  
Attorney for **Francisco Quintanilla Jr.**  
P.O. Drawer 151  
Truth or Consequences, NM 87901  
575.894.3031 Fax: 575.894.3282  
jrubin@zianet.com

Attorneys for Defendant:

**FRED J. FEDERICI**  
Acting United States Attorney

s/ M. Thayne Warner  
**M. THAYNE WARNER**  
Special Assistant United States Attorney  
Office of the General Counsel  
Social Security Administration  
1961 Stout Street, Suite 4169  
Denver, CO 80294-4003  
(303) 844-2149  
thayne.warner@ssa.gov