

**UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF NEW YORK**

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**MATTHEW M.,**

**Plaintiff**

**v.**

**5:20-CV-965  
(TJM)**

**COMMISSIONER OF SOCIAL  
SECURITY,**

**Defendant.**

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**THOMAS J. McAVOY,  
Senior United States District Judge**

**AMENDED DECISION & ORDER**

Before the Court is Plaintiff's request for attorneys fees in this appeal of the Defendant Social Security Commissioner's denial of her benefits. See dk. #22. Plaintiff contends he is entitled to attorneys fees and costs pursuant to the Equal Access to Justice Act, 28 U.S.C. § 2412.<sup>1</sup> He contends that he was the prevailing party, that the government's litigation position was not substantially justified, that his net assets are worth less than \$2 million, and that the case has ended with a final order. Plaintiff has waived direct payment and requests that any payment be made to his attorney if the United States does not claim a debt that is entitled to an offset against the Plaintiff. The government

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<sup>1</sup>The Court's original Order granted Plaintiff \$400 in filing fees. Plaintiff has informed the Court that Plaintiff proceeded *in forma pauperis* and is therefore not entitled to reimbursement for a filing fee he did not pay. See dk. # 26. The Court therefore amends the order to eliminate the filing fees awarded.

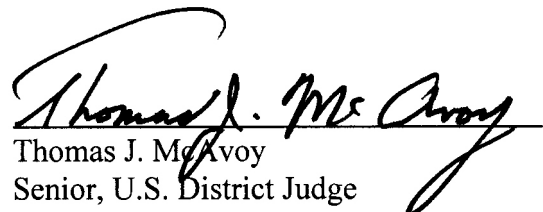
does not object to payment of fees and costs and agrees to pay the fees directly to Plaintiff's counsel if Plaintiff does not owe a debt to the government at the time of this order. See dkt. # 23.

Having examined the parties' filings and counsel's billing record, the Court finds that the fees sought are recoverable and reasonable. The Plaintiff's motion for attorneys' fees and costs, dkt. # 22, is hereby **GRANTED**, as follows:

1. Attorney's fees are awarded to Plaintiff in the amount of \$5,940.41; and
2. If Plaintiff has no debt registered with the Department of the Treasury subject to offset, the fees shall be made payable to Plaintiff's attorney.

**IT IS SO ORDERED**

DATED: April 26, 2022

  
Thomas J. McAvoy  
Senior, U.S. District Judge