

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF NORTH CAROLINA
ASHEVILLE DIVISION

CIVIL CASE NO. 1:09cv405

SYDNEY ALLEN COGGINS,)
)
 Plaintiff,)
)
 v.)
)
 MICHAEL J. ASTRUE,)
 Commissioner of Social Security,)
)
 Defendant.)
 _____)

ORDER

THIS MATTER is before the Court on the Plaintiff’s Motion for Attorney’s Fees [Doc. 25]; the Defendant’s Response to Plaintiff’s Petition for Payment of Attorney Fees [Doc. 26]; the Plaintiff’s Amendment to Motion for Attorney Fees [Doc. 27]; and the Defendant’s Response to Plaintiff’s Amended Motion for Payment of Attorney Fees [Doc. 28].

In the initial motion, Plaintiff’s counsel sought an award of attorney’s fees in the amount of Three Thousand Two Hundred Thirty-Three Dollars and Fifty Cents (\$3,233.50) in connection with his services on behalf of the Plaintiff. [Doc. 25]. The Defendant objected, arguing that an award of the amount of total fees sought would be unfair since the Commissioner sua

sponte raised the ground which resulted in the remand of the case. [Doc. 26]. The Defendant suggested that a fair and reasonable fee in this matter would be the sum of Two Thousand Dollars and No Cents (\$2,000.00), plus Three Hundred Fifty Dollars and No Cents (\$350.00) for costs and Eighteen Dollars and Fifty Cents (\$18.50) in mailing expenses. [Id.].

Plaintiff's attorney has now replied that the Plaintiff as well as counsel are agreeable to the proposed reduction. [Doc. 27]. Counsel has also now filed the Assignment of Fees which was not initially placed in the record. [Doc. 27-1].

The parties agree the appropriate award of attorney's fees is the amount of Two Thousand Dollars and No Cents (\$2,000.00) in full satisfaction of any and all claims by the Plaintiff in this case pursuant to 28 U.S.C. §2412(d). Attached to the Plaintiff's Amendment is a copy an assignment of awarded Equal Access to Justice Act (EAJA) fees by the Plaintiff to her attorney. [Doc. 27-1].

The Court finds that the Commissioner should accept this assignment of the awarded fees by the Plaintiff to her attorney and shall pay that award of fees directly to Plaintiff's counsel provided it is shown that as of the date of this Order, the Plaintiff does not owe any debt to the United States

Government which is subject to offset. Astrue v. Ratliff, __ U.S. __, 130 S.Ct. 2521, 177 L.Ed.2d 91 (2010). In the event that the Plaintiff does, however, owe the United States Government any debt subject to offset, the Commissioner shall pay any attorney's fees remaining after such offset to the Plaintiff instead of to her attorney.

The Defendant further agrees that the Plaintiff is entitled to an award of expenses for mailing in the sum of Eighteen Dollars and Fifty Cents (\$18.50) as well as the sum of \$350.00 in costs provided that the costs are to be reimbursed to the Plaintiff from the Judgment Fund upon certification thereof by the Office of the United States Attorney to the Department of Treasury.

IT IS, THEREFORE, ORDERED that the Plaintiff's Motion for Attorney's Fees [Doc. 25] as amended by the Plaintiff's Amendment to Motion for Attorney Fees [Doc. 27] is hereby **GRANTED** and the Plaintiff is hereby awarded attorney's fees in the amount of Two Thousand Dollars and No Cents (\$2,000.00) which sum is in full satisfaction of any and all claims by the Plaintiff in this case pursuant to 28 U.S.C. §2412(d).

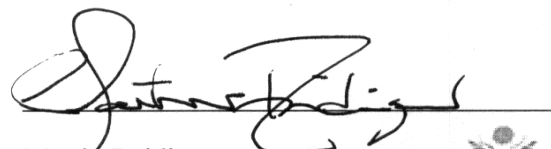
IT IS FURTHER ORDERED that the Commissioner shall inform Plaintiff's counsel whether the Plaintiff owes a debt to the Government by which this fee award may be offset no later that thirty (30) days from entry of

this Order. Provided that the Plaintiff does not owe any debt to the United States Government which is subject to offset, the Commissioner shall honor the Assignment of fees. In the event that the Plaintiff does, however, owe the United States Government any debt subject to offset, the Commissioner shall pay any attorney's fees remaining after such offset to the Plaintiff instead of to her attorney.

IT IS FURTHER ORDERED that no additional Petition pursuant to 28 U.S.C. §2412(d) may be filed.

IT IS FURTHER ORDERED that the Plaintiff is hereby awarded an award of expenses in the sum of Eighteen Dollars and Fifty Cents (\$18.50) as well as the sum of \$350.00 in costs provided that the costs are to be reimbursed to the Plaintiff from the Judgment Fund upon certification thereof by the Office of the United States Attorney to the Department of Treasury.

Signed: April 11, 2012


Martin Reidinger
United States District Judge

