

**UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF NORTH CAROLINA
BRYSON CITY DIVISION
2:14-cv-00042-RJC**

VIRGINIA N. PORTER,)
)
 Plaintiff,)
)
 v.)
)
 CAROLYN W. COLVIN,)
 Acting Commissioner of Social Security,)
)
 Defendant.)
 _____)

ORDER

THIS MATTER comes before the Court on Plaintiff’s Consent Motion for Attorneys’ Fees pursuant to the Equal Access to Justice Act (“EAJA”), 28 U.S.C. § 2412, filed on November 12, 2015. (Doc. No. 14). Plaintiff indicates that Defendant has consented to this Motion, and Defendant has not objected to the requested fees and the time for doing so has expired. Having reviewed the Motion, supporting materials, and the case file, the Court determines that Plaintiff should be awarded attorneys’ fees under EAJA, 28 U.S.C. § 2412(d), in the amount of \$5,000.00, court costs in the amount of \$400.00, and mailing expenses in the amount of \$20.07.

IT IS, THEREFORE, ORDERED that Plaintiff’s Consent Motion for Attorneys’ Fees, (Doc. No. 14), is **GRANTED**. The Court will award attorneys’ fees in the amount of \$5,000.00, court costs in the amount of \$400.00, and mailing expenses in the amount of \$20.07, and pursuant to Comm’r of Soc. Sec. v. Ratliff, 560 U.S. 586 (2010), the fee award will first be subject to offset of any debt Plaintiff may owe to the United States. The Commissioner will determine whether Plaintiff owes a debt to the United States. If so, that debt will be satisfied first, and if any funds remain, they will be made payable to Plaintiff and mailed to Plaintiff’s

counsel. If the United States Department of the Treasury reports to the Commissioner that the Plaintiff does not owe any debt, the Government will exercise its discretion and honor an assignment of EAJA fees, and pay those fees directly to Plaintiff's counsel. No additional petition pursuant to 28 U.S.C. § 2412(d) shall be filed.

EAJA allows compensation for costs, including court filing costs; however, such costs are to be paid out of the Department of Treasury's Judgment Fund while fees and expenses are to be paid by the defendant agency. See 28 U.S.C. §§ 1920, 2412. Therefore, the court costs of \$400 shall be paid out of the Department of Treasury's Judgment Fund as a cost, and the attorney's fees and mailing expenses shall be paid by the Social Security Administration.

Signed: December 9, 2015



Robert J. Conrad, Jr.
United States District Judge

