

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF NORTH CAROLINA
CHARLOTTE DIVISION
CIVIL ACTION NO. 3:16-CV-249-DCK**

CARLTON EUGENE FISHER,)	
)	
Plaintiff,)	
)	
v.)	<u>ORDER</u>
)	
NANCY A. BERRYHILL,)	
Acting Commissioner of Social Security,)	
)	
Defendant.)	
)	

THIS MATTER IS BEFORE THE COURT on Plaintiff’s “Petition For Attorney’s Fees Pursuant To Equal Access To Justice Act, 28 U.S.C.A. Section 2412(d)” (Document No. 33) filed August 10, 2017. The parties have consented to Magistrate Judge jurisdiction pursuant to 28 U.S.C. § 636(c), and immediate review of this motion is appropriate. Having carefully considered the motion, the record, and noting Defendant’s counsel does not object to the motion, the undersigned will grant the motion, with modification.

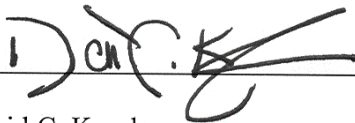
This case required an unusual amount of attention by the Court as a result of numerous mistakes and delays caused by Plaintiff’s counsel. See (Document Nos. 15, 17, 20, 24, 25, and 26). As such, the Court in its discretion will reduce the amount of fees to be awarded based on Plaintiff’s counsel’s conduct “which unduly and unreasonably protracted the final resolution of the matter in controversy.” 28 U.S.C.A. § 2412(d)((1)(C).

IT IS, THEREFORE, ORDERED that Plaintiff’s “Petition For Attorney’s Fees Pursuant To Equal Access To Justice Act, 28 U.S.C.A. Section 2412(d)” (Document No. 33) is **GRANTED**, to the extent that the Court will award attorney fees in the amount of **\$2,500.00**, and that 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, the 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 a federal debt, the Government will exercise its discretion and honor an assignment of EAJA fees, and pay the awarded fees directly to Plaintiff's counsel. No additional petition pursuant to 28 U.S.C. § 2412(d) shall be filed.

SO ORDERED.

Signed: August 14, 2017



David C. Keesler
United States Magistrate Judge

