

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

CIVIL ACTION NO.: 3:16-cv-601

ROBIN DENISE MALKER,)
)
 PLAINTIFF,)
)
 VS.)
)
 NANCY A. BERRYHILL¹,)
 ACTING COMMISSIONER OF)
 SOCIAL SECURITY,)
)
 DEFENDANT.)

THIS MATTER IS BEFORE THE COURT on the Plaintiff’s Consent Motion for Fees Pursuant to the Equal Access to Justice Act 28 U.S.C. § 2412(d)(1)(A) filed on November 29, 2017. Having reviewed the motion, supporting materials, memorandum in support, and the case file the Court determines that Plaintiff should be awarded an attorney’s fee under the Equal Access to Justice Act (“EAJA”), 28 U.S.C. § 2412(d), in the amount of \$4,799.87.

IT IS ORDERED that the Plaintiff’s Motion for Fees Under the Equal Access to Justice Act 28 U.S.C. § 2412(d)(1)(A) filed is **GRANTED**, to the extent that the Court will award attorney fees in the amount of \$4,799.87, and that pursuant to Comm’r of Soc. Sec. v. Ratliff, 560 U.S. --, 130 S. Ct. 2521 (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

¹ Nancy A. Berryhill is now the Acting Commissioner of Social Security. Pursuant to Rule 25(d) of the Federal Rules of Civil Procedure, Nancy A. Berryhill should be substituted for Acting Commissioner Carolyn W. Colvin as the defendant in this suit. No further action needs to 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).

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.

Signed: December 6, 2017

A handwritten signature in black ink, reading "Graham C. Mullen", written over a horizontal line.

Graham C. Mullen
United States District Judge

