

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF NORTH CAROLINA
CHARLOTTE DIVISION
DOCKET NO. 3:16-cv-832

BRENDA TONEY,)
)
 Plaintiff,)
)
 Vs.)
)
 NANCY A. BERRYHILL, Acting Commissioner)
 of Social Security,)
)
 Defendant.)

ORDER

THIS MATTER is before the Court on plaintiff’s Motion for Fees under the Equal Access to Justice Act, 28 U.S.C. § 2412. The Court enters the following Order, pursuant to its authority to award fees to a prevailing party, other than the United States, incurred by that party in a civil action against the United States under the Equal Access to Justice Act (“EAJA”), 28 U.S.C. § 2412(d)(1)(A). Having reviewed the pleadings, the Court finds that plaintiff’s requested hourly rate of \$196.50 is reasonable, but defendant correctly states the proper amount of time, 19.6 hours, to be billed. Based on these findings, the Court enters the following Order.

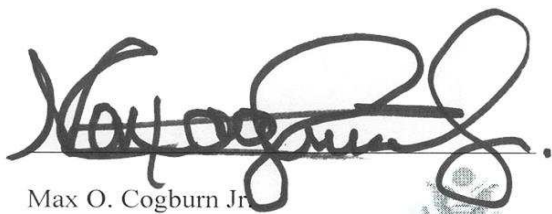
ORDER

IT IS, THEREFORE, ORDERED that plaintiff’s Motion for Fees under the Equal Access to Justice Act (#16) is **GRANTED WITH MODIFICATION**, and

the Social Security Administration shall pay attorney's fees in the amount of \$3,851.40, in full satisfaction of any and all attorney's fee claims plaintiff may have in this case under the EAJA.

Pursuant to the United States Supreme Court's ruling in Astrue v. Ratliff, 130 S. Ct. 2521 (2010), these attorney's fees are payable to plaintiff as the prevailing party, and are subject to offset through the Treasury Department's Offset Program to satisfy any pre-existing debt plaintiff may owe to the government. If, subsequent to the entry of the Court's EAJA Order, the Commissioner determines that Plaintiff owes no debt to the government that would subject this award of attorney fees to offset, the Commissioner may honor plaintiff's signed assignment of EAJA fees providing for payment of the subject fees to plaintiff's counsel, rather than to plaintiff. If, however, the Commissioner discovers that plaintiff owes the government any debt subject to offset, the Commissioner shall pay any attorney fees remaining after such offset to plaintiff, rather than to counsel.

Signed: September 26, 2017



Max O. Cogburn Jr.
United States District Judge