MECAN DROOKE WEEKS

## IN THE UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF OKLAHOMA

MEGAN BROOKE WEEKS,	)
Plaintiff,	)
V.	) Case No. CIV-16-188-SPS
	)
NANCY A. BERRYHILL,	)
<b>Acting Commissioner of the Social</b>	)
Security Administration, <sup>1</sup>	)
	)
Defendant.	)

## AMENDED OPINION AND ORDER AWARDING ATTORNEY'S FEES TO THE PLAINTIFF UNDER THE EAJA

Plaintiff Megan Brooke Weeks was the prevailing party in this action under the Social Security Act. Plaintiff originally sought an award of attorney's fees in the amount of \$4,578.70 and costs in the amount of \$400.00, pursuant to the Equal Access to Justice Act, 28 U.S.C. § 2412(d). *See* Docket No. 20. The Commissioner subsequently filed a stipulation, indicating that the parties had agreed to an award of attorney's fees in the amount of \$4,200.00, as well as the requested \$400.00 in costs. *See* Docket No. 21.

Upon review of the record herein, the Court finds that the agreed amount of fees and costs is reasonable and that the Commissioner should be ordered to pay it to the Plaintiff as the prevailing party herein. *See* 28 U.S.C. § 2412(d)(1)(A) ("Except as otherwise specifically provided by statute, a court shall award to a prevailing party other

<sup>&</sup>lt;sup>1</sup> On January 23, 2017, Nancy A. Berryhill became the Acting Commissioner of Social Security. In accordance with Fed. R. Civ. P. 25(d), Ms. Berryhill is substituted for Carolyn Colvin as the Defendant in this action.

than the United States fees and other expenses, in addition to any costs awarded pursuant

to subsection (a), incurred by that party in any civil action (other than cases sounding in

tort)[.]"); see also Manning v. Astrue, 510 F.3d 1246, 1251 (10th Cir. 2007) ("The EAJA

therefore permits attorney's fees reimbursement to financially eligible prevailing parties,

who make a proper application, and not to their attorneys.").

Accordingly, IT IS ORDERED that the Plaintiff's Motion and Brief in Support for

an Award of for Attorney's Fees Under the Equal Access to Justice Act 28 U.S.C. § 2412

[Docket No. 20] is hereby DENIED as moot, and the Commissioner's Stipulation for

Award of Attorney Fees Pursuant to the Equal Access to Justice Act, 28 U.S.C. § 2412

[Docket No. 21] is hereby GRANTED, to the extent that the Government is hereby

ordered to pay the agreed-upon \$4,200.00 fee award and \$400.00 in costs to the Plaintiff

as the prevailing party herein. IT IS FURTHER ORDERED that if the Plaintiff's

attorney is subsequently awarded any fees pursuant to 42 U.S.C. § 406(b)(1), said

attorney shall refund the smaller amount of such fees to the Plaintiff pursuant to Weakley

v. Bowen, 803 F.2d 575, 580 (10th Cir. 1986).

**DATED** this 17<sup>th</sup> day of January, 2018.

Steven P. Shreder

United States Magistrate Judge

Eastern District of Oklahoma