

IN THE UNITED STATES DISTRICT COURT FOR THE  
NORTHERN DISTRICT OF OKLAHOMA

MELANIE A. CLEMENT,	)	
	)	
Plaintiff,	)	
	)	
v.	)	Case No. 13-CV-566-FHM
	)	
CAROLYN COLVIN, Acting	)	
Commissioner of the Social	)	
Security Administration,	)	
	)	
Defendant.	)	

**OPINION AND ORDER**

Plaintiff seeks an award of attorney fees in the amount of \$4,360.90 under the Equal Access to Justice Act (EAJA), 28 U.S.C. § 2412. [Dkt. 23]. The Commissioner does not object to Plaintiff being awarded fees in the requested amount. [Dkt. 24].

The EAJA statute provides for payment of fees to the prevailing party, here Plaintiff. 28 U.S.C. § 2412 (d)(1)(A). The Tenth Circuit has ruled that the term “prevailing party” refers to Plaintiff, not the attorney. *Manning v. Astrue*, 510 F.3d 1246, 1255 (10th Cir. 2007).

The court finds that the amount of the fee request is reasonable. Based on that finding and the absence of any objection to the amount of the fee request, the undersigned finds that Plaintiff should be awarded EAJA fees in the amount of \$4,360.90. Pursuant to the Commissioner’s usual practice, the check should be made payable to Plaintiff and mailed to counsel’s address. If Plaintiff’s attorney receives the fees awarded herein and attorney fees are also awarded and received by counsel under 42 U.S.C. § 406(b) of the Social Security Act, counsel shall refund the smaller award to Plaintiff pursuant to *Weakley v. Bowen*, 803 F.2d 575, 580 (10th Cir. 1986).

Plaintiff's Motion for Attorney's Fees Pursuant to the Equal Access to Justice Act,  
[Dkt. 23] is GRANTED as provided herein.

SO ORDERED this 27th day of May, 2015.

  
FRANK H. McCARTHY  
UNITED STATES MAGISTRATE JUDGE