

**UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF OKLAHOMA**

ROBIN BRIAN BURTON,)	
)	
Plaintiff,)	
)	
v.)	Case No. CIV-15-1039-CG
)	
NANCY A. BERRYHILL, Acting)	
Commissioner of Social Security)	
Administration,¹)	
)	
Defendant.)	

ORDER


On September 11, 2017, the Court entered an Opinion and Order and a Judgment reversing the decision of the Acting Commissioner and remanding this case for further proceedings. *See* Doc. Nos. 26, 27. Plaintiff Robin Brian Burton now requests an award of attorney’s fees pursuant to the Equal Access to Justice Act, 28 U.S.C. § 2412. *See* Pl.’s Mot. Att’y Fees (Doc. No. 28). Defendant has responded that she has no objection to the requested fee award. *See* Def.’s Resp. (Doc. No. 29).

Having considered Plaintiff’s unopposed request and the relevant record, the Court finds that: “(1) [P]laintiff is a ‘prevailing party’; (2) the position of the United States was not ‘substantially justified’; and (3) there are no special circumstances that make an award of fees unjust” in this case. *Hackett v. Barnhart*, 475 F.3d 1166, 1172 (10th Cir. 2007) (quoting 28 U.S.C. § 2412(d)(1)(A)). The Court therefore GRANTS Plaintiff’s request

¹ Nancy A. Berryhill, the current Acting Commissioner of the Social Security Administration, is hereby substituted as Defendant in this matter pursuant to Rule 25(d) of the Federal Rules of Civil Procedure.

(Doc. No. 28) and awards fees in the amount of \$4764.30, with said amount to be paid directly to Plaintiff and sent in care of Troutman & Troutman PC, 1350 S. Boulder Avenue, Tulsa, Oklahoma, 74119. If attorney's fees are also awarded under 42 U.S.C. § 406(b), Plaintiff's counsel shall refund the smaller award to Plaintiff pursuant to *Weakley v. Bowen*, 803 F.2d 575, 580 (10th Cir. 1986).

IT IS SO ORDERED this 7th day of November, 2017.



CHARLES B. GOODWIN
UNITED STATES MAGISTRATE JUDGE