

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

MICHAEL COOPER,

Plaintiff,

v.

**NANCY A. BERRYHILL, Deputy
Commissioner for Operations,
Social Security Administration,**

Defendant.¹

Case No. CIV-17-69-CG

ORDER

On March 14, 2018, the Court entered an Opinion and Order and a Judgment reversing the decision of the Social Security Administration and remanding this case for further proceedings. *See* Doc. Nos. 23, 24. Plaintiff Michael Cooper 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. 26). Defendant has notified the Court that she has no objection to the requested fee award. *See id.*

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

¹ Nancy A. Berryhill was the Acting Commissioner of Social Security beginning January 23, 2017. In November 2017, her acting status ended as a matter of law pursuant to the Federal Vacancies Reform Act, 5 U.S.C. §§ 3345 et seq., and she returned to her position of record as Deputy Commissioner for Operations. In accordance with the agency’s Order of Succession, Ms. Berryhill continues to lead the Social Security Administration as the agency awaits the nomination and confirmation of a Commissioner. <https://www.ssa.gov/agency/commissioner.html> (last visited Apr. 20, 2018).

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 (Doc. No. 26) and awards fees in the amount of \$6000.00, with said amount to be paid directly to Plaintiff and sent in care of Miles L. Mitzner, P.O. Box 5700, Edmond, Oklahoma, 73083. 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 May, 2018.



CHARLES B. GOODWIN
UNITED STATES MAGISTRATE JUDGE