

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

<p><b>RHONDA L. SHERMAN,</b></p> <p style="padding-left: 40px;"><b>Plaintiff,</b></p> <p><b>v.</b></p> <p><b>COMMISSIONER OF SOCIAL SECURITY,</b></p> <p style="padding-left: 40px;"><b>Defendant.</b></p>	<p>)</p> <p>)</p> <p>)</p> <p>)</p> <p>)</p> <p>)</p> <p>)</p> <p>)</p> <p>)</p> <p>)</p>	<p><b>Case No. CIV-17-1247-SM</b></p>
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**ORDER**

Before the Court is Plaintiff’s Motion for Award of Attorney Fees under the Equal Access to Justice Act. Doc. 22. The Court orders that, by stipulation of the parties, Plaintiff is awarded attorney fees under the Equal Access to Justice Act (EAJA), 28 U.S.C. § 2412(d), in the amount of \$4,500.00. The amount is payable to Plaintiff in care of her attorney, Timothy M. White.

**BACKGROUND**

On July 31, 2018, the Court remanded this matter to the Commissioner for additional administrative proceedings. Doc. 20. Judgment entered in favor of Plaintiff and against the Commissioner that same day. Doc. 21. On August 30, 2018, Plaintiff filed an application for attorney fees under the EAJA. Doc. 22. Plaintiff sought \$4,688.60 in attorney fees. *Id.* at 1. After Plaintiff filed

her request, the Commissioner filed a stipulated motion for an award of \$4,500.00 in attorney fees. Doc. 23.

### ORDER

Due to the parties' stipulation, the Court hereby grants Plaintiff's motion for attorney fees in part and grants the stipulated motion. The undersigned knows of no special circumstances that would make an award of attorney fees unjust. The court finds the stipulated amount to be reasonable. Plaintiff is awarded \$4,500.00 in attorney fees under the EAJA.

Payment of this amount shall constitute a complete release from and bar to any and all claims Plaintiff may have relating to EAJA fees in connection with this action. The parties further agree that the EAJA award is without prejudice to Plaintiff's attorney's right to seek attorney fees pursuant to Social Security Act § 206(b), 42 U.S.C. § 406(b), subject to the offset provisions of the EAJA. *See* 28 U.S.C. § 2412(c)(1) (2006).

In accordance with decisions from the United States Supreme Court and Tenth Circuit Court of Appeals, the award of attorney fees must be made payable to Plaintiff as the prevailing party. *See Astrue v. Ratliff*, 560 U.S. 586, 595-98 (2010); *Manning v. Astrue*, 510 F.3d 1246, 1255 (10th Cir. 2007); *Brown v. Astrue*, 271 F. App'x 741, 743-44 (10th Cir. 2008).

In addition, if Plaintiff's counsel ultimately receives an award of attorney fees pursuant to 42 U.S.C. §406(b), he must refund the smaller award to Plaintiff pursuant to *Weakley v. Bowen*, 803 F.2d 575, 580 (10th Cir. 1986).

DATED this 19th day of September, 2018.



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SUZANNE MITCHELL  
UNITED STATES MAGISTRATE JUDGE