

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF OREGON

CANDY WESTPHAL,

3:15-cv-01904-AC

Plaintiff,

ORDER

v.

NANCY A. BERRYHILL,<sup>1</sup>  
Acting Commissioner, Social  
Security Administration,

Defendant.

BROWN, Judge.

Magistrate Judge John V. Acosta issued Findings and Recommendation (#29) on July 14, 2017, in which he recommends this Court grant Plaintiff's Petition (#25) for Attorney Fees of \$14,480.00 pursuant to 42 U.S.C. 406(b) and, in light of

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<sup>1</sup> On January 23, 2017, Nancy A. Berryhill was appointed Acting Commissioner of Social Security and pursuant to Federal Rule of Civil Procedure 25(d) is substituted as Defendant in this action.

previously awarded fees of \$5,774.40 under the Equal Access to Justice Act (EAJA), award Plaintiff attorneys' fees in the amount of \$8,705.60 "from [Plaintiff's] retroactive benefits."<sup>2</sup>

The matter is now before this Court pursuant to 28 U.S.C. § 636(b)(1)(B) and Federal Rule of Civil Procedure 72(b).

Because no objections to the Magistrate Judge's Findings and Recommendation were timely filed, this Court is relieved of its obligation to review the record *de novo*. See *Dawson v. Marshall*, 561 F.3d 930, 932 (9<sup>th</sup> Cir. 2009). See also *United States v. Reyna-Tapia*, 328 F.3d 1114, 1121 (9<sup>th</sup> Cir. 2003) (*en banc*). Having reviewed the legal principles *de novo*, the Court does not find any error.

#### CONCLUSION

The Court **ADOPTS** Magistrate Judge Acosta's Findings and Recommendation (#29). Accordingly, the Court **GRANTS** Plaintiff's Petition (#25) for Attorney Fees Per 42 U.S.C. 406(b) and **AWARDS**

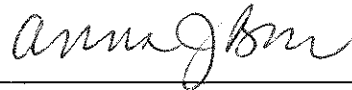
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<sup>2</sup> In her Petition Plaintiff requests attorneys' fees pursuant to § 406(b) in the amount of \$14,480.00, but she notes counsel has received fees pursuant to EAJA in the amount of \$5,774.40. Plaintiff, therefore, stipulates to an award of \$8,705.60, which is \$14,480.00 in § 406(b) fees less the \$5,774.40 in EAJA fees previously received.

Plaintiff attorneys' fees in the amount of **\$8,705.60**.

IT IS SO ORDERED.

DATED this 8<sup>th</sup> day of August, 2017.



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ANNA J. BROWN  
United States Senior District Judge