

**UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
TAMPA DIVISION**

ANTHONY DAVID AKERS,

Plaintiff,

v.

Case No.: 8:16-cv-1420-T-AAS

**NANCY A. BERRYHILL, acting
Commissioner of Social Security,¹**

Defendant.

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ORDER

Mr. Akers moves for an award of attorney's fees, costs, and expenses, which the Commissioner does not oppose. (Doc. 23).

Mr. Akers seeks attorney's fees in the amount of \$3,796.05² pursuant to the Equal Access to Justice Act ("EAJA"), 28 U.S.C. § 2412. Mr. Akers asks for \$211.05 in fees for work performed by attorney Suzanne Harris in 2017, calculated at a rate of \$191.86 for per hour for 1.1 hours. (Doc. 23, p. 4). Mr. Akers also asks for \$3,180.00 in fees for work performed by attorneys not admitted to the Middle District of Florida, calculated at a rate of \$75.00 per hour for 42.4 hours. (*Id.* at 5). And Mr. Akers asks for \$615.00 in fees for work performed by paralegals, calculated at a rate of \$75.00 per hour for 8.2 hours. ³ (*Id.*).

¹ Between the filing of this suit and the entry of this Order, Nancy A. Berryhill replaced Carolyn W. Colvin as acting Commissioner. As such, Ms. Berryhill is "automatically substituted as a party." Fed. R. Civ. P. 25(d).

² Although the sum of Mr. Akers's attorney's fees is \$4,006.05, the parties agreed to a reduction in paralegal hours. (Doc. 23, pp. 2, 5).

³ The hourly rates requested are reasonable in light of the Consumer Price Index Inflation Calculator. *See* 28 U.S.C. § 2412(d)(2)(A) ("[A]ttorney fees shall not be awarded in excess of

I entered an order reversing and remanding the case under sentence four of 42 U.S.C. § 405(g) to the Commissioner for further administrative proceedings. (Doc. 18). The Clerk entered judgment in Mr. Akers's favor the next day. (Doc. 19). The Commissioner then moved to alter or amend the judgment, which I denied. (Docs. 20, 22). As the prevailing party, Mr. Akers now requests an award of fees. *See* 28 U.S.C. § 2412(a)(1) & (d)(1)(A). Because I denied the Commissioner's motion to alter the judgment on December 7, 2017, and Mr. Akers moved for attorney's fees on February 7, 2018, the court has jurisdiction to award the requested fees. *See* 28 U.S.C. § 2412(d)(1)(B).⁴

Mr. Akers also seeks reimbursement for costs incurred as a result of the filing fee in the amount of \$400.00. (Doc. 23, p. 5). Under Section 2412(a)(2), the prevailing party in an action against the United States may recover costs, including an amount equal to the filing fee prescribed under 28 U.S.C. § 1914, which in turn requires any party instituting a civil action to pay a \$350 filing fee. In the Middle District of Florida, the party instituting a civil action must also pay a \$50 administrative fee. *See* U.S. Dist. Court Middle Dist. of Fla., *Forms, Policies & Publications*, [uscourts.gov, http://www.flmd.uscourts.gov/forms/forms_policies.htm](http://www.flmd.uscourts.gov/forms/forms_policies.htm) (select "Fee Schedule").

Last, Mr. Akers requests reimbursement for expenses related to mailing his service of process to the Commissioner in the amount of \$60.94. In light of the Commissioner's lack of opposition, I will allow reimbursement of expenses related to service of the complaint. *See Duffield v. Colvin*, No. 3:15-CV-1065-J-MCR, 2016 WL 6037306, at *4 (M.D. Fla. Oct. 14, 2016).

\$125 per hour unless the court determines that an increase in the cost of living . . . justifies a higher fee.”).

⁴ The sixty-day appeal period expired on February 6, 2018, at which point the judgment became final. Fed. R. App. P. 4(a)(1)(b); 4(a)(4). Therefore, Mr. Akers's deadline for filing a petition for EAJA fees is March 9, 2018. 28 U.S.C. § 2412(d)(1)(B); Fed. R. Civ. P. 6(a)(1).

After issuance of an order awarding EAJA fees, however, the United States Department of the Treasury will determine whether Mr. Akers owes a debt to the government. If Mr. Akers has no discernable federal debt, the government will accept Mr. Akers's assignment of EAJA fees and pay the fees directly to his counsel. (Doc. 23-13).

For the reasons set out in Mr. Akers's motion, therefore, it is **ORDERED**:

1. Mr. Akers's Consent Motion for Attorney's Fees Pursuant to the Equal Access to Justice Act, 28 U.S.C. § 2412(a), (Doc. 23) is **GRANTED**.
2. Ms. Diaz is awarded **\$3,796.05** in attorney's fees pursuant to the EAJA.
3. Ms. Diaz is awarded **\$400.00** in costs pursuant to the EAJA.
4. Ms. Diaz is awarded **\$60.94** in expenses pursuant to the EAJA.

ORDERED in Tampa, Florida, on this 12th day of February, 2018.



AMANDA ARNOLD SANSONE
United States Magistrate Judge