

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

SANDRA MAINER,

Plaintiff,

v.

Case No. 8:20-cv-2124-LSG

MARTIN O'MALLEY,
Commissioner of the Social
Security Administration,

Defendant.

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ORDER

The plaintiff Sandra Mainer moves unopposed for an award of \$6,430.00 in attorney's fees as the prevailing party under the Equal Access of Justice Act ("EAJA"), 28 U.S.C. § 2412(d). Doc. 30. A June 3, 2024, order grants Mainer's unopposed motion for the entry of judgment after she obtained a favorable decision from the Commissioner on remand pursuant to 42 U.S.C. § 405(g), which resulted in an award of disability benefits. Doc. 25. The Clerk subsequently entered judgment in favor of Mainer. Doc. 26. A July 8, 2024, order, awards \$26,689.68 in attorney's fees under 42 U.S.C. § 406(b) and directs counsel to refund to Mainer any attorney's fees received under the EAJA. Doc. 29, at 2.

As the prevailing party, Mainer now seeks an award of attorney's fees under the EAJA. *See* 28 U.S.C. § 2414(d)(1)(A); *cf. Shalala v. Schaefer*, 509 U.S. 292, 300-02 (1993) (concluding that a party who wins a sentence-four remand order under 42

U.S.C. § 405(g) is a prevailing party), *superseded by rule on other grounds*, Fed. R. Civ. P. 58(c)(2)(B). After an order awarding EAJA fees, the United States Department of the Treasury determines whether Mainer owes a debt to the government. *See Astrue v. Ratliff*, 560 U.S. 586, 592–93 (2010) (“A § 2412(d)(1)(A) attorney's fees award is payable to the litigant and is therefore subject to an offset to satisfy the litigant's pre-existing debt to the Government.”). Absent a federal debt, the government will accept her assignment of EAJA fees and pay the fees directly to her counsel.

The Commissioner consents to the requested relief. Additionally, Mainer's counsel filed an affidavit in support of the petition. Doc. 30-1. Therefore, for the reasons stated by Mainer, the motion for attorney fees under the EAJA, Doc. 30, is **GRANTED**. Mainer shall receive \$6,430.00 in attorney's fees under the EAJA. Unless the Department of Treasury determines that Mainer owes a federal debt, the defendant must pay the fees to Mainer's counsel in accord with Mainer's assignment of fees. *See* Doc. 30-2.

ORDERED on this 17th day of October, 2024.


LINDSAY S. GRIFFIN
United States Magistrate Judge