

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

VARSHABEN PATEL,

Plaintiff,

v.

Case No. 8:22-cv-1082-JRK

KILOLO KIJAKAZI,
Acting Commissioner of Social
Security,

Defendant.

ORDER

This cause is before the Court on Plaintiff's Application for Award of Reasonable Attorney Fees Under 28 U.S.C. § 2412(d) (Doc. No. 26; "Application"), filed October 2, 2023.¹ In the Application, Plaintiff seeks an award of attorney's fees pursuant to the Equal Access to Justice Act ("EAJA") in the amount of \$7,456.46. Application at 1, 4. The time for Defendant to respond has passed with no response being received; the Motion is therefore deemed unopposed.

According to the Application, a total of 32.3 hours were expended in the representation of Plaintiff before the Court. Id. at 6, Ex. A. Plaintiff requests an

¹ The pages of the Application are unnumbered. Citations follow the pagination assigned by the Court's electronic filing system (CM/ECF).

hourly rate of \$230.85 for hours in 2022. Petition at 3. Plaintiff is seeking a higher hourly rate than the \$125 specified by statute based on the increase in the cost of living since 1996, when the attorney's fee rate was last adjusted by Congress. See 28 U.S.C. § 2412(d)(2)(A) (permitting fee awards at rates higher than \$125 per hour upon the Court's determination that cost of living has increased). Having examined the Consumer Price Index and the representations made in the Application, the Court concludes an increase in inflation does justify a proportionate increase in attorney's fees.² Further, the number of hours expended is reasonable.

Upon due consideration, it is

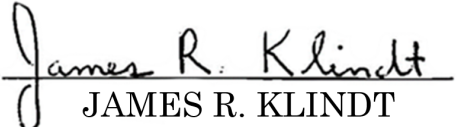
ORDERED:

1. Plaintiff's Application for Award of Reasonable Attorney Fees Under 28 U.S.C. § 2412(d) (Doc. No. 26) is **GRANTED**.

² See U.S. Dep't of Labor, Inflation Calculator, <http://data.bls.gov/cgi-bin/cpicalc.pl> (last visited Jan. 3, 2024). In computing the hourly rate adjustment for the cost of living increase, the Consumer Price Index is generally used for the year in which the services were performed. See Masonry Masters, Inc. v. Nelson, 105 F.3d 708, 710-13 (D.C. Cir. 1997); see also Gates v. Barnhart, No. 5:01-cv-148-GRJ, 2002 WL 1452232, at *3 (M.D. Fla. June 25, 2002) (unpublished).

2. The Clerk of Court is directed to enter judgment in favor of Plaintiff and against Defendant for attorney's fees in the amount of \$7,456.46 pursuant to 28 U.S.C. § 2412(d).

DONE AND ORDERED in Jacksonville, Florida on January 4, 2024.


JAMES R. KLINDT
United States Magistrate Judge

kaw
Copies to:
Counsel of Record