UNITED STATES DISTRICT COURT
DISTRICT OF RHODE ISLAND

LISA H.	:	
	:	
v.	:	C.A. No. 23-00178-JJM
	:	
MARTIN O'MALLEY, Commissioner Social Security Administration	: :	

REPORT AND RECOMMENDATION

Lincoln D. Almond, United States Magistrate Judge

Pending before me for a report and recommendation (28 U.S.C. § 636(b)(1)(B); Fed. R. Civ. P. 54(d)(2)(D) and 72(b)) is Plaintiff's Motion for Attorney Fees Pursuant to the Equal Access to Justice Act ("EAJA"), 28 U.S.C. § 2412(d). (ECF No. 16). Plaintiff seeks an award of $3,887.54 in fees for successful prosecution of this disability benefits appeal. Id. The Commissioner opposes the Motion, arguing that the timesheet initially presented to the Commissioner for consideration is seemingly a reconstruction, not based on contemporaneously maintained time records and is so materially different from the one filed with the instant EAJA Motion as to render the filed timesheet facially suspect. (ECF No. 18 at p. 9).

This identical issue was recently considered by the Court in Austin B. v. O'Malley, No. 23-142-JJM, 2024 WL 726214 (D.R.I. Feb. 22, 2024) and Adriane A. v. O'Malley, No. 23-77-JJM, 2024 WL 748522 (D.R.I. Feb. 23, 2024). In those cases, Magistrate Judge Sullivan conducted a thoughtful, thorough, and historical review of the instant fee dispute and concluded fees should be awarded in those cases despite the unusual and troubling history preceding these EAJA Motions. Magistrate Judge Sullivan reasonably concluded that the timesheets submitted in those cases contained "nothing questionable and appear[ ] to be uniquely tailored to work that unambiguously

was performed." Id. The same can be said in this case, and I adopt the findings and rationale laid out in Magistrate Judge Sullivan's Austin B. and Adriane A. Reports and Recommendations, and I fully incorporate her findings and rationale herein.

Based on the foregoing, I recommend that Plaintiff's Motion for Attorney Fees Pursuant to EAJA (ECF No. 16) in the amount of $3,887.54 be GRANTED.

Any objections to this report and recommendation must be specific and must be served and filed with the Clerk of the Court within fourteen days of service of this report and recommendation. See Fed. R. Civ. P. 72(b); DRI LR Cv 72. Failure to file specific objections in a timely manner constitutes waiver of the right to review by the District Court and the right to appeal the District Court's decision. See Brenner v. Williams-Sonoma, Inc., 867 F.3d 294, 297 n.7 (1st Cir. 2017); Santos-Santos v. Torres-Centeno, 842 F.3d 163, 168 (1st Cir. 2016).

/s/ Lincoln D. Almond
LINCOLN D. ALMOND
United States Magistrate Judge
March 4, 2024