

**IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF WEST VIRGINIA**

**JANET L. CLEVINGER,**

**Plaintiff,**

**v.**

**CIVIL ACTION NO. 2:05 CV 93  
(Maxwell)**

**COMMISSIONER OF  
SOCIAL SECURITY,**

**Defendant.**

**ORDER**

By Order entered December 5, 2007, the Court referred the Plaintiff's Application For Fees And Other Expenses Under The Equal Access To Justice Act to United States Magistrate Judge James E. Seibert, pursuant to 28 U.S.C. § 636(b)(1)(B); Rule 72 of the Federal Rules of Civil Procedure; and Rule 7.02(c) of the Local Rules of Civil Procedure, with directions to consider the same and to submit to the Court proposed findings of fact and a recommendation for disposition.

On February 21, 2008, Magistrate Judge Seibert entered a Report And Recommendation That Plaintiff's Application For Award Of Attorney's Fees Under The Equal Access To Justice Act Be Denied, wherein the parties were directed, in accordance with 28 U.S.C. §636(b)(1) and Rule 6(e) of the Federal Rules of Civil Procedure, to file any written objections thereto with the Clerk of Court within ten (10)

days after being served with a copy of said Report And Recommendation.

Magistrate Judge Seibert's Report And Recommendation expressly provided that a failure to timely file objections would result in waiver of the right to appeal from a judgment of this Court based thereon.

The docket in the above-styled civil action reflects that no objections to Magistrate Judge Seibert's February 21, 2008, Report And Recommendation That Plaintiff's Application For Award Of Attorney's Fees Under The Equal Access To Justice Act Be Denied have been filed.

Upon consideration of said Report and Recommendation That Plaintiff's Application For Award Of Attorney's Fees Under The Equal Access To Justice Act Be Denied, and having received no written objections thereto<sup>1</sup>, the Court accepts and approves the Report And Recommendation That Plaintiff's Application For Award Of Attorney's Fees Under The Equal Access To Justice Act Be Denied. Therefore, it is

**ORDERED** that Magistrate Judge Seibert's Report And Recommendation That Plaintiff's Application For Award Of Attorney's Fees Under The Equal Access To Justice Act Be Denied (Docket No. 32) be, and the same is hereby, **ACCEPTED** in whole and that the Plaintiff's Application For Fees And Other Expenses Under The

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<sup>1</sup>The failure of the parties to object to the Report And Recommendation not only waives their appellate rights in this matter, but also relieves the Court of any obligation to conduct a *de novo* review of the issues presented. See Wells v. Shriners Hospital, 109 F.3d 198, 199-200 (4<sup>th</sup> Cir. 1997); Thomas v. Arn, 474 U.S. 140, 148-153 (1985).

Equal Access To Justice Act (Docket No. 23) be disposed of in accordance with the recommendation of the Magistrate Judge. Accordingly, it is

**ORDERED** that the Plaintiff's Application For Fees And Other Expenses Under The Equal Access To Justice Act (Docket No. 23) be, and the same is hereby, **DENIED**.

The Clerk of Court is directed to transmit copies of this Order to counsel of record.

**ENTER:** May   14  , 2008

**/S/ Robert E. Maxwell**  
United States District Judge