

## [Attorney Fees Awards Subject to Offset Litigants' Preexisting Debts to the U.S. Government](#)

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In [Astrue v. Ratliff](#), 2010 DJDAR 8875 (2010), the [United States Supreme Court](#) held that attorney fees awards are properly payable to the litigant, not to her attorney. For this reason, a fee award is subject to an offset where the litigant owed the government a preexisting debt.

Ruby Ree (“Ree”) successfully sued the Social Security Administration (“SSA”) for benefits. Her attorney was Catherine Ratliff (“Ratliff”). Ree filed a successful motion for attorney fees which was not opposed by the government. Before the government reimbursed Plaintiff for the fee award, it discovered Ree owed the United States a debt that predated the award. The government sought an administrative offset against the award. Counsel for the prevailing party, Ms. Ratliff, intervened challenging the offset on the grounds that the fee award belonged to her, as a litigant’s attorney, and thus could not satisfy the litigant’s debts. The district court disagreed, but the appeals court agreed with Ratliff. The issue was then appealed to the United States Supreme Court.

The high court reversed and remanded the decision of the court of appeal.

The court specifically stated its longstanding view of the term “**prevailing party.**” The court noted that in attorney fees statutes that term refers to the “**prevailing litigant.**” Statutes that mean to distinguish the attorney from the litigant in fees cases do so explicitly. The court also stated that the word “award” in the litigation context means giving or assigning by judicial decree. Here, the [Equal Access to Justice Act](#) provides for the court to “award” the “prevailing party” attorney fees. As such, an attorney fees award is payable to the litigant rather than to the attorney. Because the award is properly payable to the litigant it is subject to an offset for the preexisting debt.