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6 **IN THE UNITED STATES DISTRICT COURT**
7 **FOR THE DISTRICT OF ARIZONA**
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9 Beatriz Angelica Moreno,

10 Plaintiff,

11 v.

12 Commissioner of Social Security
13 Administration,

14 Defendant.

No. CV-16-02682-PHX-GMS

ORDER

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16 Pending before the Court is Plaintiff Beatriz Angelica Moreno’s (“Plaintiff”)
17 Petition for Approval of Attorneys’ Fees. (Doc. 27.) For the following reasons, the Motion
18 is granted.

19 **BACKGROUND**

20 Plaintiff filed this action on August 8, 2016, seeking review of the denial of her
21 application for benefits under the Title II of the Social Security Act. (Doc. 1.) Plaintiff
22 filed her opening brief on December 12, 2016. (Doc. 16.) Subsequently, the parties
23 stipulated to remand the matter to the Administrative Law Judge (“ALJ”) for further
24 administrative proceedings, (Doc. 20), and the Court remanded the matter pursuant to the
25 stipulation, (Doc. 21.) Upon remand, the ALJ issued a favorable decision and awarded
26 past-due benefits.

27 On May 9, 2017, Plaintiff requested attorneys’ fees pursuant to the Equal Access to
28 Justice Act (“EAJA”). (Doc. 23.) The Court awarded Plaintiff \$3,526.03 in attorneys’ fees

1 under the EAJA. (Doc. 25.) Plaintiff now moves for attorneys' fees in the amount of
2 \$16,470.00 pursuant to 42 U.S.C. § 406(b)(1). The Motion is unopposed. (Doc. 28.)

3 DISCUSSION

4 Pursuant to 42 U.S.C. § 406(b)(1)(A), “[w]henver a court renders a judgment
5 favorable to a claimant under this subchapter who was represented before the court by an
6 attorney, the court may determine and allow as part of its judgment a reasonable fee for
7 such representation, not in excess of 25 percent of the total of the past-due benefits to which
8 the claimant is entitled by reason of such judgment[.]” Section 406(b) “does not displace
9 contingent-fee agreements” but rather “calls for court review of such arrangements as an
10 independent check, to assure that they yield reasonable results in particular cases.”
11 *Gisbrecht v. Barnhart*, 535 U.S. 789, 807 (2002).

12 In determining whether a contingency fee request is reasonable, courts must
13 “approach fee determinations by looking first to the contingent-fee agreement, then testing
14 it for reasonableness.” *Id.* at 808. Courts may reduce the amount requested in the
15 contingent-fee agreement “if the attorney provided substandard representation or delayed
16 the case, or if the requested fee would result in a windfall.” *Crawford v. Astrue*, 586 F.3d
17 1142, 1151 (9th Cir. 2009).

18 Here, Plaintiff contracted to pay 25 percent of her past-due benefits on a contingency
19 fee basis, in accordance with Section 406(b), (Doc. 27–3), and there is no evidence of
20 substandard performance or delay by Plaintiff’s counsel. Additionally, in light of the risks
21 involved in a contingent-fee case and counsel’s experience, Plaintiff’s requested amount is
22 reasonable.

23 In addition, as the Court awarded Plaintiff attorneys’ fees under the EAJA, the Court
24 orders that Plaintiff’s counsel refund the EAJA award of \$3,526.03 to Plaintiff. *See*
25 *Gisbrecht*, 535 U.S. at 796 (explaining that Congress allows fee awards under both Section
26 406(b) and the EAJA but “the claimant’s attorney must refund to the claimant the amount
27 of the smaller fee”) (internal citations omitted).

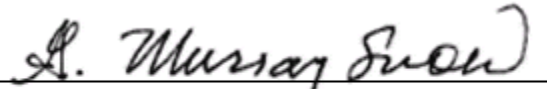
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Accordingly,

IT IS THEREFORE ORDERED that Plaintiff Beatriz Angelica Moreno's Petition for Approval of Attorneys' Fees (Doc. 27) is **GRANTED**. Plaintiff's counsel is awarded \$16,470.00 in attorneys' fees pursuant to 42 U.S.C. § 406(b)(1).

IT IS FURTHER ORDERED that Plaintiff's counsel shall refund to Plaintiff the EAJA award of \$3,526.03 within fourteen (14) days from the date of this Order.

Dated this 2nd day of March, 2021.



G. Murray Snow
Chief United States District Judge