

UNITED STATES DISTRICT COURT  
MIDDLE DISTRICT OF FLORIDA  
FORT MYERS DIVISION

SANDI BIRNE,

Plaintiff,

v.

Case No.: 2:17-cv-400-FtM-38MRM

COMMISSIONER OF SOCIAL  
SECURITY,

Defendant.

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**OPINION AND ORDER**<sup>1</sup>

Before the Court is United States Magistrate Judge Mac R. McCoy's Report and Recommendation. ([Doc. 28](#)). Judge McCoy recommends granting Plaintiff Sandi Birne's Motion for Attorney's Fees and awarding her counsel \$21,909.75 in attorney's fees. Neither party objects to the Report and Recommendation, and the time to do so has expired.

A district judge "may accept, reject, or modify in whole or in part, the findings or recommendations made by the magistrate judge." [28 U.S.C. § 636\(b\)\(1\)](#). The district judge "shall make a de novo determination of those portions of the report or specified proposed findings or recommendations to which

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<sup>1</sup>Disclaimer: Documents hyperlinked to CM/ ECF are subject to PACER fees. By using hyperlinks, the Court does not endorse, recommend, approve, or guarantee any third parties or the services or products they provide, nor does it have any agreements with them. The Court is also not responsible for a hyperlink's availability and functionality, and a failed hyperlink does not affect this Order.

objection is made.” *Id.* And “[t]he judge may also receive further evidence or recommit the matter to the magistrate judge with instructions.” *Id.*

After examining the file independently and upon considering Judge McCoy’s findings and recommendations, the Court accepts and adopts the Report and Recommendation.

Accordingly, it is


**ORDERED:**

(1) United States Magistrate Judge Mac R. McCoy’s Report and Recommendation (Doc. 28) is **ACCEPTED and ADOPTED** and the findings are incorporated herein.

- a. Plaintiff’s Uncontested Petition for Attorney’s Fees is **GRANTED** (Doc. 26).
- b. The Commissioner of Social Security must **PAY** Plaintiff’s counsel **\$21,909.75** in attorney’s fees.
- c. Upon Plaintiff’s counsel’s receipt of these fees, Plaintiff’s counsel must **REMIT** the **\$8,032.87** prior fee award under the EAJA to Plaintiff.
- d. If applicable, the Commissioner of Social Security must also **PAY** directly to Plaintiff any remaining portion of the past-due benefits previously withheld pending the Court’s determination of attorney’s fees.

(2)The Clerk is **DIRECTED** to enter an amended judgment awarding  
**\$21,909.75** to Plaintiff's counsel for attorney's fees.

**DONE** and **ORDERED** in Fort Myers, Florida on October 19, 2020.

  
**SHERI POLSTER CHAPPELL**  
**UNITED STATES DISTRICT JUDGE**

Copies: All Parties of Record