

**UNITED STATES DISTRICT COURT  
MIDDLE DISTRICT OF FLORIDA  
TAMPA DIVISION**

DEBRA DENISE BLANTON,

Plaintiff,

v.

CASE NO: 8:12-CV-940-T-30TBM

COMMISSIONER OF SOCIAL SECURITY,

Defendant.

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**ORDER**

THIS CAUSE comes before the Court upon Defendant's Motion under Rule 60(b) of the Federal Rules of Civil Procedure Requesting that the Court Reconsider Its Order Granting Attorney's Fees under 42 U.S.C. § 406(b). Upon consideration, the Court grants the motion to the extent that it vacates its Order granting Plaintiff's purported unopposed motion and reinstates it to pending status, so that Defendant may have an opportunity to file its response in opposition.

**DISCUSSION**

On July 7, 2017, Plaintiff filed Plaintiff's "Unopposed" Motion for Attorney's Fees under 42 U.S.C. § 406(b) (Dkt. 27). Plaintiff requested fees in the amount of \$13,675. Plaintiff represented in the body of the motion that: "The Plaintiff has conferred with opposing counsel and counsel consents to the Motion for attorney fees (Exhibit 4)." *Id.* Exhibit 4 is titled "Statement of Agreement," and certifies, in relevant part, that "opposing counsel has consented to the fees requested." *Id.* Based on these representations, the Court

entered its Order, awarding Plaintiff's counsel attorney's fees in the amount of \$13,675. (Dkt. 28).

Defendant's motion for reconsideration states that Defendant's counsel informed Plaintiff's counsel that, although Defendant's counsel did not think Defendant objected to the motion for fees, he needed to know the number of hours Plaintiff's counsel was claiming to determine if the fee request was reasonable. (Dkt. 29). Defendant states that Plaintiff's counsel filed the motion as unopposed, despite the request for more information, and that Defendant does oppose the amount of fees Plaintiff's counsel requests in the motion.

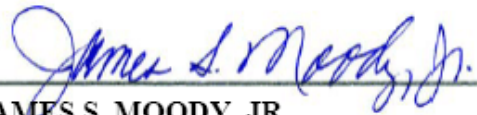
Under these circumstances, the Court determines that Defendant should have an opportunity to challenge the reasonableness of Plaintiff's request for attorney's fees. It is unclear whether Plaintiff's counsel misunderstood Defendant's counsel when he filed the motion as unopposed. The Court will give him the benefit of the doubt and assume a misunderstanding occurred. Accordingly, the Court denies Defendant's motion to the extent Defendant argues that the Court should deny Plaintiff's request for attorney's fees in the entirety for characterizing the motion as unopposed. Rather, the motion will be reinstated to pending status and Defendant may then file its response in opposition.

It is therefore ORDERED AND ADJUDGED that:

1. Defendant's Motion (Dkt. 29) under Rule 60(b) of the Federal Rules of Civil Procedure Requesting that the Court Reconsider Its Order Granting Attorney's Fees under 42 U.S.C. § 406(b) is granted in part as explained herein.

2. The Clerk of Court is directed to vacate the Court's Order that granted Plaintiff's request for attorney's fees in the amount of \$13,675.00 (Dkt. 28).
3. The Clerk of Court is directed to reinstate Plaintiff's Motion for Attorney's Fees to pending status (Dkt. 27).
4. Defendant shall file its response in opposition to Plaintiff's Motion (Dkt. 27) within fourteen (14) days of this Order.

**DONE** and **ORDERED** in Tampa, Florida on August 1, 2017.

  
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**JAMES S. MOODY, JR.**  
**UNITED STATES DISTRICT JUDGE**

Copies furnished to:  
Counsel/Parties of Record