



for such representation except as provided in this paragraph.” *Ibid.* In practical terms, as plaintiff’s counsel recognizes, this means that, in the event of an award under §406(b)(1), counsel must refund any amount previously awarded under the Equal Access to Justice Act, 28 U.S.C. §2412(d)(1)(B). Counsel represents that he will refund to plaintiff the EAJA fee (\$6,000.00) that was previously awarded. See, Doc. 33, pp. 2.

The Supreme Court has held that § 406(b)(1) controls, but does not displace, contingent fee agreement in social security cases:

Most plausibly read, we conclude, § 406(b) does not displace contingent-fee agreements as the primary means by which fees are set for successfully representing Social Security benefits claimants in court. Rather, § 406(b) calls for court review of such arrangements as an independent check, to assure that they yield reasonable results in particular cases.

*Gisbrecht v. Barnhart*, 535 U.S. 789, 807 (2002).

Having reviewed the circumstances presented here, including the time and effort expended by counsel, the excellent result received by plaintiff, the amount of the past-due benefits and the value of the projected benefits over plaintiff’s expected life span, the Court concludes that \$10,000.00 is a reasonable fee here. The Court notes that the Commissioner has filed a response indicating that she does not oppose counsel’s request. While the Commissioner has no direct stake in the §406(b)(1) fee request, she “plays a part in the fee determination resembling that of a trustee for the claimants.” *Gisbrecht*, 535 U.S. at 798, n. 6.

Wherefore, counsel’s Motion for Attorney Fees Pursuant to 42 U.S.C. §406(b)(1) (**Doc. 33**) is **GRANTED**. The Court awards counsel a fee of \$10,000.00.

Counsel shall refund to plaintiff the amount previously awarded under the EAJA, \$6,000.00.

**IT IS SO ORDERED.**

**DATED: January 19, 2016.**

**s/Clifford J. Proud**  
**CLIFFORD J. PROUD**  
**UNITED STATES MAGISTRATE JUDGE**