

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

KIMBERLY LYNN MORAN,

Plaintiff,

CASE NO. 16-CV-10650

v.

HON. GEORGE CARAM STEEH

COMMISSIONER OF SOCIAL
SECURITY,

Defendant.

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**ORDER ACCEPTING REPORT AND
RECOMMENDATION (Doc. 25) AND GRANTING
PETITIONER'S MOTION FOR ATTORNEY FEES (Doc. 21)**

Now before the court is a motion for attorney fees pursuant to 42 U.S.C. § 406(b) filed by Plaintiff's counsel, Petitioner Diane M. Kwitoski. Petitioner represented Plaintiff Kimberly Lynn Moran in this action in which Plaintiff prevailed and was awarded social security disability benefits. The matter was referred to Magistrate Judge Elizabeth A. Stafford who has now issued a report and recommendation recommending that the court grant Petitioner's motion and award fees, and order that Petitioner refund the amount previously awarded under the Equal Access to Justice Act ("EAJA") to Plaintiff.

The magistrate judge specifically stated that any objections to her

report were to be filed within 14 days of service, and that failure to file such objections constituted a waiver of any further right to appeal. See *Thomas v. Arn*, 474 U.S. 140, 155 (1985). No such objections were filed by either party and the time period for doing so has expired.

The court has reviewed the record and briefing in this matter, as well as the magistrate judge's report and recommendation, and adopts the result recommended therein. Accordingly, Petitioner's motion for attorney fees pursuant to § 406(b) (Doc. 21) is GRANTED, and Petitioner is AWARDED \$9,432.00 in attorney's fees, and is ORDERED to refund to Plaintiff the EAJA award of \$3,500.

IT IS FURTHER ORDERED that the magistrate judge's report and recommendation (Doc. 25) is ACCEPTED.

IT IS SO ORDERED.

Dated: November 5, 2018

s/George Caram Steeh
GEORGE CARAM STEEH
UNITED STATES DISTRICT JUDGE

<p style="text-align: center;">CERTIFICATE OF SERVICE</p> <p>Copies of this Order were served upon attorneys of record on November 5, 2018, by electronic and/or ordinary mail.</p> <p style="text-align: center;"><u>s/Marcia Beauchemin</u> Deputy Clerk</p>
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