

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

BIRGIT E. TUTTLE,

Plaintiff,

v.

COMMISSIONER OF SOCIAL
SECURITY,

Defendant.

Case No.16-cv-11144

Paul D. Borman
United States District Judge

R. Steven Whalen
United States Magistrate Judge

ORDER (1) ADOPTING MAGISTRATE JUDGE WHALEN'S JANUARY 29, 2019 REPORT AND RECOMMENDATION (ECF NO. 41), (2) GRANTING PLAINTIFF'S COUNSEL'S MOTION FOR AN AWARD OF ATTORNEY FEES UNDER 42 U.S.C. § 406(b) (ECF NO. 37), (3) AWARDING AN ATTORNEY FEE OF \$8,623.50; and (4) ORDERING A REFUND TO THE PLAINTIFF OF THE \$5,500.00 IN ATTORNEY FEES PREVIOUSLY AWARDED UNDER THE EAJA

On January 29, 2019, Magistrate Judge R. Steven Whalen issued a Report and Recommendation to grant Plaintiff's Attorney's Petition for Fees and to award Plaintiff's counsel \$8,623.50 in attorney fees, following a successful award of benefits to the Plaintiff following a remand to the Commissioner in this case. Magistrate Judge Whalen further Ordered that Plaintiff's counsel refund to Plaintiff the \$5,500.00 in attorneys' fees previously awarded to Plaintiff's counsel under the Equal Access to Justice Act ("EAJA"). Having reviewed the Report and Recommendation, and there

being no timely objections from either party under 28 U.S.C. § 636(b)(1) and E.D. Mich L. R. 72.1(d), the Court ADOPTS the Report and Recommendation (ECF No. 41), GRANTS Plaintiff's counsel's motion for an award of fees in the amount of \$8,623.50 (ECF No. 37), and further ORDERS the Plaintiff be refunded the previously awarded \$5,500.00 EAJA fee. The Court requires that Plaintiff's counsel submit to the Court an affidavit that the check was provided to Plaintiff.

IT IS SO ORDERED.

s/Paul D. Borman
PAUL D. BORMAN
UNITED STATES DISTRICT JUDGE

Dated: March 1, 2019

CERTIFICATE OF SERVICE

The undersigned certifies that a copy of the foregoing order was served upon each attorney or party of record herein by electronic means or first class U.S. mail on March 1, 2019.

s/Deborah Tofil
Case Manager