

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NEBRASKA

ERICA M. SMITH,

Plaintiff,

vs.

ANDREW M. SAUL, Commissioner of  
the Social Security Administration,

Defendant.

8:18-CV-240

MEMORANDUM AND ORDER

This matter is before the Court upon the plaintiff's Motion for Attorney Fees Pursuant to [42 U.S.C. § 406\(b\)](#) ([filing 25](#)). In a previous order, the Court awarded the plaintiff fees and expenses in the amount of \$4,176.02 pursuant to the Equal Access to Justice Act (EAJA), [28 U.S.C. § 2412\(d\)](#). [Filing 23](#). Now before the Court is the plaintiff's motion for \$16,928.00 in attorney fees to be awarded to one of his attorneys, Mr. Kappelman, pursuant to [42 U.S.C. § 406\(b\)](#). The defendant has no objection to the awarding of fees and expenses in that amount, which represents Mr. Kappelman's share of the withheld 25 percent of the plaintiff's award of past due benefits, provided that the lesser of the two fee awards is refunded to the plaintiff. [Filing 26](#). Plaintiff's counsel has agreed to do so. [Filing 25 at 3](#).

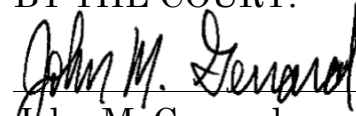
The Court, being fully advised in the premises, finds that the amount of fees requested is fair and reasonable. Accordingly, the Court will grant the plaintiff's motion and award the requested fees. The Court will further direct the plaintiff's counsel to refund the EAJA award to the plaintiff.

IT IS ORDERED:

1. The plaintiff's Motion for Attorney Fees Pursuant to [42 U.S.C. § 406\(b\)](#) ([filing 25](#)) is granted.
2. By separate document, the Court shall enter judgment for plaintiff and against defendant providing that plaintiff is awarded attorney fees of \$16,928.00.
3. That sum shall be sent to plaintiff's counsel, Mr. Kappelman, who shall be responsible for refunding the fee award under the Equal Access to Justice Act to the plaintiff and remitting to Mr. Cuddigan his portion of the award.

Dated this 31st day of July, 2020.

BY THE COURT:



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John M. Gerrard  
Chief United States District Judge