

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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JEAN CARLOS LARACUENTE,

Plaintiff,

-against-

COMMISSIONER OF SOCIAL SECURITY,

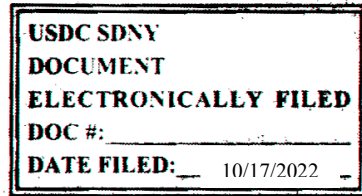
Defendant.

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SARAH NETBURN, *United States Magistrate Judge.*

On April 13, 2020, the plaintiff filed this action pursuant to 42 U.S.C. § 405(g), seeking review of a denial of social security benefits. On August 19, 2020, the parties consented to my jurisdiction. On February 23, 2021, upon stipulation of the parties, the Court remanded the case for further proceedings. On May 25, 2021, the Court approved a stipulation and agreement awarding the plaintiff \$7,740.00 in attorney’s fees under the Equal Access to Justice Act (“EAJA”), 28 U.S.C. § 2412.

Following the remand, the plaintiff received an award of retroactive benefits from the Social Security Administration. Thereafter, on September 13, 2022, plaintiff’s counsel filed a motion for the award of attorney’s fees pursuant to 42 U.S.C. § 406(b). Section 406(b) permits the Court to approve “a reasonable fee . . . not in excess of 25 percent of the . . . past-due benefits” awarded to the plaintiff. *Gisbrecht v. Barnhart*, 535 U.S. 789, 795 (2002) (quoting 42 U.S.C. §406(b)(1)(A)). Because of the Commissioner’s unique role and expertise in this area, the Court ordered the Commissioner to respond to the plaintiff’s motion. And on October 14, 2022,



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OPINION & ORDER

the Commissioner filed a letter indicating that they did not object to plaintiff's counsel's motions for § 406(b) fees.

Having reviewed the motion, along with all supporting documents, the Court determines that the requested award is reasonable and ORDERS that attorney's fees be granted in the amount of \$20,980.25, which represents 25% of the past due benefits awarded to the plaintiff. Upon receipt of this sum, counsel for the plaintiff is directed to refund directly to the plaintiff the previously awarded EAJA fees of \$7,740.00.

SO ORDERED.



SARAH NETBURN
United States Magistrate Judge

DATED: October 17, 2022
New York, New York