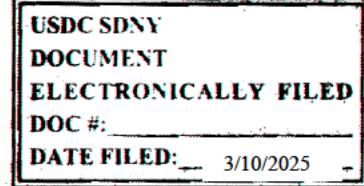


**UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK**



-----X  
**KRISTAL MARIE MARTINEZ,**

**Plaintiff,**

**21-CV-00821 (SN)**

**-against-**

**ORDER**

**COMMISSIONER OF SOCIAL SECURITY,**

**Defendant.**

-----X

**SARAH NETBURN, United States Magistrate Judge:**

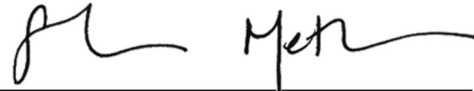
Plaintiff filed this action pursuant to 42 U.S.C. § 405(g), seeking review of a denial of social security benefits. The Court remanded the matter for further review by the Commissioner of Social Security, and the Court approved a stipulation and agreement awarding Plaintiff \$8,754.00 in attorney’s fees under the Equal Access to Justice Act (the “EAJA”), 28 U.S.C. § 2412. ECF No. 41.

Following the remand, Plaintiff received retroactive benefits from the Social Security Administration. Thereafter, on March 7, 2025, Plaintiff’s counsel filed a motion for an award of attorney’s fees pursuant to 42 U.S.C. § 406(b). ECF No. 42. 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 **ORDERS** the Commissioner to respond to Plaintiff’s motion no later than March 19, 2025. In particular, the Court directs the Commissioner to address the question of whether the fees

amount to an impermissible windfall. See Diberardino v. Comm’r of Soc. Sec., No. 17-cv-02868 (PKC), 2020 WL 6746828 (E.D.N.Y. Nov. 17, 2020).

**SO ORDERED.**

A handwritten signature in black ink, appearing to read "S Netburn", written over a horizontal line.

SARAH NETBURN  
United States Magistrate Judge

DATED: New York, New York  
March 10, 2025