

IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF NORTH CAROLINA  
ASHEVILLE DIVISION  
No. 1:15-cv-96-GCM

BRIAN D. MOTE, )  
 )  
 Plaintiff, )  
 )  
 v. )  
 )  
 NANCY A. BERRYHILL, )  
 Acting Commissioner of )  
 Social Security, )  
 )  
 Defendant. )

**ORDER**

Plaintiff’s counsel filed a Motion for Attorney Fees Under § 406(b) of the Social Security Act, seeking fees under section 206(b) of the Social Security Act, 42 U.S.C. § 406(b) in the amount of \$7,521.50. Attorney’s fees under section 206(b) are paid from past-due benefits awarded to a successful claimant. 42 U.S.C. § 406(b). Plaintiff has previously been awarded attorney’s fees under the Equal Access to Justice Act (EAJA), 28 U.S.C. § 2412, in the amount of \$5,000.00 (ECF No. 20).

Defendant filed a response, stating that under *Gisbrecht v. Barnhart*, 535 U.S. 789 (2002), it is the duty of the Court to determine a reasonable fee.

It is **ORDERED** that Plaintiff’s counsel be awarded fees under 42 U.S.C. § 406(b) in the amount of \$7,521.50, and Plaintiff counsel shall refund to

Plaintiff the smaller award between this amount and the EAJA award.

**SO ORDERED**, this the 5th day of June 2017.

Signed: June 5, 2017

A handwritten signature in cursive script, reading "Graham C. Mullen", written over a horizontal line.

Graham C. Mullen  
United States District Judge

