

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF OHIO
EASTERN DIVISION**

MICHAEL A. THOMAS,)	CASE NO. 5:08CV1763
)	
PLAINTIFF,)	JUDGE SARA LIOI
)	
vs.)	
)	
COMMISSIONER OF SOCIAL SECURITY,)	MEMORANDUM OPINION AND ORDER
)	
DEFENDANT.)	
)	

Before the Court is plaintiff's motion for attorney fees under the Social Security Act, 42 U.S.C. § 406(b). (Doc. No. 22.) The Commissioner of Social Security has filed a response indicating that he does not oppose the motion. (Doc. No. 23.) For the reasons and in the manner set forth below, the motion is **GRANTED**.

ANALYSIS

On March 18, 2009, pursuant to a joint motion, this Court reversed and remanded for further proceedings the Commissioner's decision to deny Social Security disability benefits to the plaintiff. (Doc. No. 18.) On remand, by letter dated June 20, 2010 (Motion, Ex. B), disability benefits were awarded and plaintiff became entitled to almost \$60,000 in past-due benefits, with 25% (\$14,918.50) being withheld for attorney fees. (Motion at 1.)

Prior to filing this action, plaintiff agreed to pay his attorney, Kirk B. Roose of Roose & Ressler, 25% of past-due benefits awarded. (*See* Motion, Ex. A.) On April 17, 2009, this Court granted fees under the Equal Access to Justice Act (EAJA), 28 U.S.C. § 2412(d), in

the amount of \$2,091.84, an amount which has been paid by plaintiff. (Motion at 1.) The Social Security Administration has disbursed fees for services rendered before the agency in the amount of \$7,500 from the 25% withheld from the past-due benefits, pursuant to 42 U.S.C. § 406(a). Plaintiff's attorney is entitled to an award for services rendered in this Court in the amount of \$5,326.66, payable from the 25% withheld. This will amount to a total of \$12,826.66 in fees (\$7,500.00 + \$5,326.66), which is less than the 25% agreed to by the plaintiff. The remaining \$2,091.84 of withheld funds shall be reimbursed to plaintiff in recognition of that same amount which he paid to his attorney pursuant to this Court's EAJA award.

Accordingly, the Court will enter judgment for an award of attorney fees under 42 U.S.C. § 406(b) in the total amount of \$7,418.50, to be disbursed by the agency as follows:

1. The amount of \$5,326.66 (\$7,418.50 - \$2,091.84) payable to Kirk B. Roose of Roose & Ressler; and
2. The amount of \$2,091.84 payable to Plaintiff Michael A. Thomas as reimbursement for that same amount paid by him to his attorney pursuant to the Equal Access to Justice award.

IT IS SO ORDERED.

Dated: April 21, 2011



HONORABLE SARA LIOI
UNITED STATES DISTRICT JUDGE