

**IN THE UNITED STATES DISTRICT
COURT FOR THE SOUTHERN DISTRICT
OF OHIO EASTERN DIVISION**

MATTHEW KING,

Plaintiff,

v.

**Civil Action 2:10-cv-800
Judge Algenon L. Marbley
Magistrate Judge Jolson**

COMMISSIONER OF SOCIAL SECURITY,

Defendant.

REPORT AND RECOMMENDATION

On August 19, 2011, the Court reversed the decision of the Commissioner and remanded the action, pursuant to Sentence 4 of 42 U.S.C. § 405(g), for further administrative proceedings. (Docs. 19 and 20). On September 20, 2016, Plaintiff filed a Motion for Attorney Fees under 42 U.S.C. § 406(b)(1), seeking an award in the total amount of \$4,427.50. (Doc. 24 at 3). Defendant filed a response, indicating that it does not oppose the Motion because it is consistent with § 406(b)'s requirements, is in accord with the fee agreement, and is otherwise reasonable. (Doc. 26 at 1–2).

Here, Plaintiff's counsel seeks an award of \$4,427.50 for 12.65 hours of work performed on Plaintiff's behalf in this Court. (*Id.*). This fee would compensate Plaintiff's counsel at the rate of \$350.00 per hour. (*Id.* at 2). Upon review of the Motion and its exhibits, the Court finds that the fee requested is consistent with the 25% cap provided by § 406(b) and the fee agreement signed by Plaintiff and counsel. (Doc. 24-5). Further, Plaintiff's counsel acknowledges that the Equal Access to Justice Act ("EAJA")'s savings clause entitles Plaintiff to a refund of any

amount previously received. (Doc. 24 at 3).

Based on the foregoing, it is **RECOMMENDED** that the Motion be **GRANTED** (Doc. 24) and Plaintiff's counsel be **AWARDED** attorney fees in the total amount of \$4,427.50.

Procedure on Objections to Report and Recommendation

If any party objects to this Report and Recommendation, that party may, within fourteen (14) days of the date of this Report, file and serve on all parties written objections to those specific proposed findings or recommendations to which objection is made, together with supporting authority for the objection(s). A Judge of this Court shall make a *de novo* determination of those portions of the Report or specified proposed findings or recommendations to which objection is made. Upon proper objections, a Judge of this Court may accept, reject, or modify, in whole or in part, the findings or recommendations made herein, may receive further evidence or may recommit this matter to the Magistrate Judge with instructions. 28 U.S.C. § 636(b)(1).

The parties are specifically advised that failure to object to the Report and Recommendation will result in a waiver of the right to have the District Judge review the Report and Recommendation *de novo*, and also operates as a waiver of the right to appeal the decision of the District Court adopting the Report and Recommendation. *See Thomas v. Arn*, 474 U.S. 140 (1985); *United States v. Walters*, 638 F.2d 947 (6th Cir. 1981).

IT IS SO ORDERED.

Date: October 25, 2017

/s/ Kimberly A. Jolson
KIMBERLY A. JOLSON
UNITED STATES MAGISTRATE JUDGE