

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF OREGON

ROBERT L. SMELCER,

No. 6:15-cv-00838 -HZ

Plaintiff,

ORDER

v.

NANCY A. BERRYHILL,
Acting Commissioner of Social Security,

Defendant.

Plaintiff Robert Smelcer brought this action seeking review of the Commissioner's final decision to deny disability insurance benefits ("DIB"). In a July 6, 2016 Opinion & Order, the Court reversed the Commissioner's decision, and ordered that the case be remanded for further administrative proceedings. Judgment was also entered on July 6, 2016.

Plaintiff now seeks an award of fees pursuant to 42 U.S.C. § 406(b). Defendant has no objection to the request. The Court has reviewed the record in the case, the motion, and the supporting materials including the award of benefits, the fee agreement with counsel, and the recitation of counsel's hours and services. Applying the standards set by *Gisbrecht v. Barnhart*, 535 U.S. 789, 796 (2002), The Court finds the requested fees reasonable.

The Court grants the motion [25] and award Plaintiff's counsel \$28,898.75 in attorney's fees under 42 U.S.C. § 406(b). Previously, the Court awarded Plaintiff attorney's fees in the amount of \$6,249.80 under the Equal Access to Justice Act ("EAJA"), 28 U.S.C. § 2412. When issuing the section 406(b) check for payment to Plaintiff's attorney, the Commissioner is directed to subtract the amount previously awarded under EAJA and send Plaintiff's attorney the balance of \$22,648.95, less any applicable processing fees as allowed by statute. Any amount withheld after all administrative and court attorney's fees are paid should be released to the claimant.

IT IS SO ORDERED.

Dated this _____ day of _____, 2017

Marco A. Hernández
United States District Judge