

**IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF TENNESSEE
NASHVILLE DIVISION**

KATHY DARLENE BRADFORD,)	
)	
Plaintiff,)	
)	No. 3:11-cv-00518
v.)	Judge Nixon
)	Magistrate Judge Griffin
CAROLYN W. COLVIN,)	
Acting Commissioner of Social Security,)	
)	
Defendant.)	

ORDER

Pending before the Court is a Motion for Award of Attorney Fees under 42 U.S.C. § 406(b) (“Motion”), filed by counsel for Plaintiff Kathy Darlene Bradford and requesting an award of \$16,831.50 in attorney’s fees. (Doc. No. 29.) On December 5, 2012, this Court reversed a decision by the ALJ denying benefits to Plaintiff and remanded the case to Defendant Commissioner of Social Security. (Doc. No. 22.) As a result, Plaintiff’s counsel received \$5,505.41 in attorney’s fees under the Equal Access to Justice Act (“EAJA”), 28 U.S.C. § 2412. (Doc. No. 28.) Plaintiff’s counsel states that the Social Security Administration has since awarded her more than \$67,000.00 in past-due benefits and has withheld 25 percent of the award, or \$16,831.50, for attorney’s fees. (Doc. No. 30 at 1.) Counsel has attached a notice from the Social Security Administration confirming that it has withheld these attorney’s fees. (Doc. No. 30-1 at 2.) Defendant has not filed a response to the Motion.

Accordingly, the Court **GRANTS** the Motion (Doc. No. 29). However, attorneys may not recover both EAJA and § 406(b) fees in the same case and must refund the smaller amount to the plaintiff in the event that both fees are awarded. *Jankovich v. Bowen*, 868 F.2d 867, 871 n.1

(6th Cir. 1989). The Court **ORDERS** Plaintiff's counsel to refund to Plaintiff the \$5,505.41 EAJA fee the Court previously awarded to Plaintiff's counsel.

It is so ORDERED.

Entered this the 12 day of June, 2013.



JOHN T. NIXON, SENIOR JUDGE
UNITED STATES DISTRICT COURT