

**UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
TAMPA DIVISION**

SANDRA MAINER,

Plaintiff,

v.

Case No. 8:20-cv-2124-UAM

**MARTIN O'MALLEY,
Commissioner of the Social
Security Administration,**

Defendant.

_____ /

ORDER

Plaintiff Sandra Mainer's counsel moves for an award of **\$26,689.68** in attorney's fees under 42 U.S.C. § 406(b). (Doc. 28). The Commissioner did not respond and the time for doing so has expired. *See* Local Rule 3.01(c), M.D. Fla. ("If a party fails to timely respond [to a motion], the motion is subject to treatment as unopposed.").

Ms. Mainer applied for a period of disability, disability insurance benefits, and supplemental security income on February 6, 2017, which was denied initially and on reconsideration. (Tr. 227–28, 312–24). Ms. Mainer then requested a hearing before an Administrative Law Judge (ALJ), who found Ms. Mainer not disabled. (Tr. 12–36). The Appeals Council denied Ms. Mainer's request for review of the ALJ's decision. (Tr. 1–8). Ms. Mainer then filed a

complaint in this court. (Doc. 1). After consideration of the issues raised in the parties' memorandums of law, the court remanded the decision of the Commissioner. (Docs. 19, 21). The Commissioner found Ms. Mainer disabled on remand. (Doc. 28-3).

Under Section 406(b), when a court enters judgment favorable to a Social Security claimant represented by counsel, the court may award attorney's fees not to exceed twenty-five percent of the claimant's total past-due benefits. 42 U.S.C. § 406(b)(1)(A). Based on the fee agreement that Ms. Mainer agreed her counsel could request twenty-five percent of past-due benefits for attorney's fees, an award of attorney's fees of \$26,689.68 is appropriate. (See Doc. 28-1).

Thus, the Motion for Attorney's Fees Under 42 U.S.C. § 406(b) (Doc. 27) is **GRANTED**. Ms. Mainer's counsel is awarded **\$26,689.68** in attorney's fees and must refund to Ms. Mainer any attorney's fees received under the EAJA.

ENTERED in Tampa, Florida on July 8, 2024.



AMANDA ARNOLD SANSONE
United States Magistrate Judge