

UNITED STATES DISTRICT COURT  
MIDDLE DISTRICT OF FLORIDA  
FORT MYERS DIVISION

SHERRI LYNN WILLINGHAM,

Plaintiff,

v.

Case No. 2:23-CV-01184-KCD

COMMISSIONER OF SOCIAL  
SECURITY,

Defendant,

\_\_\_\_\_ /

**ORDER**

Having obtained an award of benefits, Plaintiff's counsel Carol Avard seeks attorney's fees under 42 U.S.C. § 406(b). (Doc. 23.) Defendant does not oppose the relief sought. (*Id.* at 1.)

Section 406(b) provides that an attorney who obtains a benefits award on remand may petition for a reasonable fee—not to exceed twenty-five percent of the claimant's past-due benefits—for work performed before the court.

Here, Attorney Avard requests \$42,649.43, which is 25 percent of the past-due benefits awarded to Plaintiff. Attorney Avard further asserts that the previous EAJA award of \$9,993.50 will be returned to Plaintiff. (Doc. 23 at 2); see *Paltan v. Comm'r of Soc. Sec.*, 518 F. App'x 673, 674 (11th Cir. 2013) (noting that the attorney has the option of either refunding a prior EAJA award to the plaintiff directly or reducing the § 406(b) award by the same

amount). For the reasons stated in Attorney Avar's unopposed motion, the requested fee is both reasonable and appropriate under § 406(b).

Accordingly, Attorney Avar's motion for attorney fees under 42 U.S.C. § 406(b) (Doc. 23) is **GRANTED**, and she is awarded § 406(b) fees of \$42,649.43. The clerk is directed to enter judgment in this amount accordingly. Attorney Avar is further directed to return the previous EAJA award to Plaintiff within fourteen days of this order.

**ORDERED** in Fort Myers, Florida on December 17, 2024.



Kyle C. Dudek  
United States Magistrate Judge