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**UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA**

CYNTHIA SMITH,)	NO. CV 12-2768-E
)	
Plaintiff,)	
)	
v.)	ORDER RE: "COUNSEL'S MOTION
)	
CAROLYN W. COLVIN, Acting)	FOR ATTORNEY FEES PURSUANT TO
Commissioner of Social Security,)	
)	42 U.S.C. § 406(b)"
Defendant.)	
)	

On March 12, 2015, counsel for Plaintiff filed "Counsel's Motion for Attorney Fees Pursuant to 42 U.S.C. § 406(b)" ("the motion"). No person filed timely opposition to the motion. See Minute Order, filed March 12, 2015. Counsel for Plaintiff seeks attorneys fees in the amount of \$5,406.39.

BACKGROUND

The Court previously remanded this matter to the Commissioner for further administrative action. The Commissioner subsequently awarded benefits to Plaintiff totaling \$37,083. Plaintiff's counsel

1 represented Plaintiff under a contingent fee agreement providing for
2 fees in the amount of 25 percent of past-due benefits.

3
4 **APPLICABLE LAW**

5
6 Section 406(b) (1) of Title 42 provides:

7
8 Whenever a court renders a judgment favorable to a claimant
9 . . . who was represented before the court by an attorney,
10 the court may determine and allow as part of its judgment a
11 reasonable fee for such representation, not in excess of
12 25 percent of the total of the past-due benefits to which
13 the claimant is entitled . . . In case of any such judgment,
14 no other fee may be payable . . . for such representation
15 except as provided in this paragraph. 42 U.S.C. §
16 406(b) (1) (A) .

17
18 According to the United States Supreme Court, section 406(b)
19
20 does not displace contingent-fee agreements as the primary
21 means by which fees are set for successfully representing
22 Social Security benefits claimants in court. Rather,
23 § 406(b) calls for court review of such arrangements as an
24 independent check, to assure that they yield reasonable
25 results in particular cases. Congress has provided one
26 boundary line: Agreements are unenforceable to the extent
27 that they provide for fees exceeding 25 percent of the past-
28 due benefits. Within this 25 percent boundary . . . the

1 attorney for the successful claimant must show that the fee
2 sought is reasonable for the services rendered. Gisbrecht
3 v. Barnhart, 535 U.S. 789, 807 (2002) (citations omitted)
4 ("Gisbrecht").

5
6 The hours spent by counsel representing the claimant and
7 counsel's "normal hourly billing charge for noncontingent-fee cases"
8 may aid "the court's assessment of the reasonableness of the fee
9 yielded by the fee agreement." Id. at 808. The Court appropriately
10 may reduce counsel's recovery

11
12 based on the character of the representation and the results
13 the representative achieved. If the attorney is responsible
14 for delay, for example, a reduction is in order so that the
15 attorney will not profit from the accumulation of benefits
16 during the pendency of the case in court. If the benefits
17 are large in comparison to the amount of time counsel spent
18 on the case, a downward adjustment is similarly in order.

19
20 Id. (citations omitted).

21
22 **DISCUSSION**

23
24 The fee sought does not exceed the agreed-upon 25 percent of
25 past-due benefits. Neither "the character of the representation" nor
26 "the results the representative achieved" suggest the unreasonableness
27 of the fee sought. Plaintiff's counsel was not responsible for any
28 significant delay in securing Plaintiff's benefits. Because the

1 present case is legally indistinguishable from Crawford v. Astrue,
2 586 F.3d 1142 (9th Cir. 2009), this Court is unable to find that a
3 comparison of the benefits secured and the time Plaintiff's counsel
4 spent on the matter suggest the unreasonableness of the fee sought.
5 Therefore, the Court concludes that "the fee sought is reasonable for
6 the services rendered," within the meaning of Gisbrecht.

7
8 **ORDER**

9
10 Section 406(b) fees are allowed in the gross amount of \$5,406.39,
11 to be paid out of the sums withheld by the Commissioner from
12 Plaintiff's benefits. Counsel shall reimburse Plaintiff in the amount
13 of \$2,000, previously paid by the Government under the Equal Access to
14 Justice Act.

15
16 IT IS SO ORDERED.

17
18 DATED: April 15, 2015.

19
20 _____/s/_____
21 CHARLES F. EICK
22 UNITED STATES MAGISTRATE JUDGE
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