

1 the Attorney and it being the desire of the Claimant to compensate Attorney out of the proceeds . . . the
2 fee for successful prosecution of this matter is . . . 25% of the past due benefits awarded upon reversal
3 of any unfavorable ALJ decision for work before the Social Security Administration” and “a separate
4 25% of the past due benefits awarded upon reversal of any unfavorable ALJ decision for work before
5 the court.” (Doc. No. 20-1).

6 On May 4, 2017, Plaintiff filed this action seeking judicial review of the Commissioner’s denial
7 of benefits. (Doc. No. 1). On February 8, 2018, the parties’ stipulated to a voluntary remand of the
8 case for further administrative proceedings pursuant to sentence four of 42 U.S.C. § 405(g). (Doc. No.
9 15.) The Court approved the parties’ stipulation on February 9, 2018. (Doc. No. 16.) On March 23,
10 2018, the Court approved the parties’ stipulation to award Plaintiff \$4,000.00 in attorneys’ fees
11 pursuant to the Equal Access to Justice Act, 28 U.S.C. § 2412. (Doc. No. 19.) On remand, the
12 Commissioner granted Plaintiff’s application for benefits and, on January 11, 2020, issued a notice
13 indicating that Plaintiff was entitled to receive \$113,597.60² in retroactive benefits. (Doc. No. 20-3.)

14 In the present Motion, Plaintiff’s counsel asks the Court to award attorneys’ fees in the amount
15 of \$20,000.00. (Doc. No. 20.) Plaintiff’s counsel contends this fee is reasonable in light of the services
16 rendered and results achieved, as counsel prepared and participated in obtaining a favorable result and
17 the manner and approach to the case saved time and reduced the accumulation of past-due benefits.
18 (Doc. No. 20 at 4). Additionally, the fee counsel seeks is less than twenty percent of the past-due
19 benefits payable to Plaintiff. (Id.) The Commissioner filed a statement in response to the Motion
20 providing an analysis of the fee request but taking no position regarding its reasonableness. (Doc. No.
21 22.)

22 **II. Legal Standard**

23 An attorney may seek an award of fees for representation of a Social Security claimant who is
24 awarded benefits:

26 ² In the motion, counsel for Plaintiff states that the past due benefits total \$140,332.50. (Doc. No. 20 at 12.) However, the
27 Notice of Award dated January 11, 2020, does not indicate the total amount of past due benefits awarded and instead states
28 that Plaintiff’s first payment would be \$85,531.10 and an additional \$28,066.50 has been withheld from Plaintiff’s benefits
for attorneys’ fees. (Doc. No. 20-3.) Accordingly, it appears the total amount of past due benefits awarded to Plaintiff is
\$113,597.60 and not \$140,332.50.

1 Whenever a court renders a judgment favorable to a claimant . . . who was represented
2 before the court by an attorney, the court may determine and allow as part of its
3 judgment a reasonable fee for such representation, not in excess of 25 percent of the
4 total of the past-due benefits to which the claimant is entitled by reason of such
5 judgment. . . .

6 42 U.S.C. § 406(b)(1)(A); see also *Gisbrecht v. Barnhart*, 535 U.S. 789, 794 (2002) (Section 406(b)
7 controls fees awarded for representation of Social Security claimants). A contingency fee agreement
8 is unenforceable if it provides for fees exceeding twenty-five percent of past-due benefits. *Gisbrecht*,
9 *supra*, 535 U.S. at 807.

10 **III. Discussion and Analysis**

11 District courts “have been deferential to the terms of contingency fee contracts § 406(b) cases.”
12 *Hern v. Barnhart*, 262 F.Supp.2d 1033, 1037 (N.D. Cal. 2003). However, the Court must review
13 contingent-fee arrangements “as an independent check, to assure that they yield reasonable results in
14 particular cases.” *Gisbrecht*, 535 U.S. at 807. In doing so, the Court should consider “the character of
15 the representation and the results the representative achieved.” *Id.* at 808. In addition, the Court
16 should consider whether the attorney performed in a substandard manner or engaged in dilatory
17 conduct or excessive delays, and whether the fees are “excessively large in relation to the benefits
18 received.” *Crawford v. Astrue*, 586 F.3d 1142, 1149 (9th Cir. 2009) (en banc).

19 In this case, after carefully considering the fee agreement and the applicable law, the Court
20 finds Plaintiff’s counsel’s requested fees to be reasonable. In support of his motion for attorneys’ fees
21 under 42 U.S.C. § 406(b), Plaintiff’s counsel attached the contingent fee agreement which provided
22 for a contingent fee of twenty-five percent of any awarded retroactive benefits. (Doc. No. 20-1.)
23 Plaintiff’s counsel accordingly accepted the risk of loss in the representation. Plaintiff’s counsel
24 additionally expended a total of 20 hours of attorney time and 3.9 hours of paralegal time while
25 representing Plaintiff before the District Court. (Doc. No. 20-4.) The requested fee amount represents
26 approximately 17.6% of past-due benefits and is below the twenty-five percent maximum. As a result
27 of counsel’s work, the matter was remanded for further proceedings before an Administrative Law
28 Judge, who issued a fully favorable decision and awarded Plaintiff benefits.

Plaintiff’s counsel provided a copy of the notice of award and the motion for attorney’s fees to
Plaintiff. (Doc. No. 20). Although served with the motion, Plaintiff did not challenge the requested

