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8	UNITED STATES DISTRICT COURT	
9	FOR THE EASTERN DISTRICT OF CALIFORNIA	
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11	TIFFANY HAYNES,	No. 2:03-cv-0497 CKD
12	Plaintiff,	
13	v.	<u>ORDER</u>
14	COMMISSIONER OF SOCIAL SECURITY,	
15	Defendant.	
16	Defendant.	
17		
18	Based on 42 U.S.C. § 406(b), counsel for plaintiff in the above-entitled action seeks an	
19	award of attorney fees in the amount of \$11,363 for 31.2 hours of professional time devoted to the	
20	representation of plaintiff before this court. Counsel concedes that this amount should be offset	
21	in the amount of \$5,100 for fees previously awarded under EAJA.	
22	42 U.S.C. § 406(b)(1)(A) provides, in relevant part:	
23	Whenever a court renders a judgment favorable to a claimant under this subchapter who was represented before the court by an attorney, the court may determine and allow as part of its judgment a reasonable fee for such representation, not in excess of 25 percent of the total of the past-due benefits to which the claimant is entitled by reason of such judgment.	
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26	by reason of such judgment.	
27	Rather than being paid by the government, fees under the Social Security Act are awarded out of	
28	the claimant's disability benefits. Russell v. Sullivan, 930 F.2d 1443, 1446 (9th Cir. 1991),	
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receded from on other grounds, Sorenson v. Mink, 239 F.3d 1140, 1149 (9th Cir. 2001). However, the 25 percent statutory maximum fee is not an automatic entitlement; the court also must ensure that the requested fee is reasonable. Gisbrecht v. Barnhart, 535 U.S. 789, 808-09 (2002) ("We hold that § 406(b) does not displace contingent-fee agreements within the statutory ceiling; instead, § 406(b) instructs courts to review for reasonableness fees yielded by those agreements."). "Within the 25 percent boundary ... the attorney for the successful claimant must show that the fee sought is reasonable for the services rendered." Id. at 807. Counsel seeks fees for 31.2 hours. Based on the quality of counsel's representation and the results achieved in this case, the undersigned finds the amount of hours expended to be reasonable. The hourly rate of \$364 is also reasonable. Accordingly, the undersigned will award the amount of attorney fees requested. Accordingly, IT IS HEREBY ORDERED that plaintiff's counsel is awarded \$11,363 in attorney fees pursuant to 28 U.S.C. § 406. Plaintiff's counsel shall refund to plaintiff the amount of \$5,100 previously awarded under EAJA. Dated: September 13, 2013 CAROLYN K. DELANEY UNITED STATES MAGISTRATE JUDGE 4 haynes.ss.406