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IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF CALIFORNIA

RICHARD CASEY,

Plaintiff,

No. CIV 08-2830 KJM

vs.

MICHAEL J. ASTRUE,  
Commissioner of Social Security,

ORDER

Defendant.

Based on 42 U.S.C. § 406(b), counsel for plaintiff in the above-entitled action seeks an award of attorney’s fees in the amount of \$14,808.75 for 40.85 hours of professional time<sup>1</sup> devoted to the representation of plaintiff before this court. Counsel concedes that this amount should be offset in the amount of \$6,003.91 for fees previously awarded under EAJA.

42 U.S.C. § 406(b)(1)(A) provides, in relevant part:

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.

<sup>1</sup> The amount of hours claimed was submitted in connection with plaintiff’s prior motion for an award of fees under EAJA. See Docket no. 27.

1 Rather than being paid by the government, fees under the Social Security Act are awarded out of  
2 the claimant's disability benefits. Russell v. Sullivan, 930 F.2d 1443, 1446 (9th Cir. 1991),  
3 receded from on other grounds, Sorenson v. Mink, 239 F.3d 1140, 1149 (9th Cir. 2001).  
4 However, the 25 percent statutory maximum fee is not an automatic entitlement; the court also  
5 must ensure that the requested fee is reasonable. Gisbrecht v. Barnhart, 535 U.S. 789, 808-09  
6 (2002) ("We hold that § 406(b) does not displace contingent-fee agreements within the statutory  
7 ceiling; instead, § 406(b) instructs courts to review for reasonableness fees yielded by those  
8 agreements."). "Within the 25 percent boundary ... the attorney for the successful claimant must  
9 show that the fee sought is reasonable for the services rendered." Id. at 807.

10 Counsel seeks fees for 40.85 hours. Based on the quality of counsel's  
11 representation and the results achieved in this case, the undersigned finds the amount of hours  
12 expended to be reasonable. The hourly rate of \$362.51 is also reasonable. Accordingly, the  
13 undersigned will award the amount of attorney's fees requested.

14 Accordingly, IT IS HEREBY ORDERED that plaintiff's counsel is awarded  
15 \$14,808.75 in attorney's fees pursuant to 28 U.S.C. § 406, to be offset in the amount of  
16 \$6,003.91 previously awarded under EAJA.

17 DATED: October 13, 2010.

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21 U.S. MAGISTRATE JUDGE  
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