

1 No. 29 at 7. In support of this assertion, counsel filed a declaration stating that the 25%
2 contingency agreement, attached as “Exhibit 1,” is “dated February 6, 2014.” ECF No. 29 at 9
3 ¶ 2. That date is just prior to the date plaintiff filed this lawsuit.

4 However, the contingency fee agreement attached to the declaration as Exhibit 1 is dated
5 September 10, 2015, which is not the “outset” of counsel’s representation of plaintiff. See ECF
6 No. 29-1. To the contrary, the attached agreement was signed after the court had already
7 remanded the case for the immediate calculation and payment of benefits. See ECF No. 15 (May
8 29, 2015).²

9 The court acknowledges that counsel in fact represented plaintiff during this court
10 proceeding. Therefore, if counsel means to argue that the fact of her successful representation,
11 alone, is what entitles her to take 25% of plaintiff’s past-due benefits, then she is entitled to apply
12 for the fee on that basis, and to explain the legal basis for it. However, counsel may not request
13 the fee based (at least in part) upon the representation that her client signed a written 25%
14 contingency fee arrangement prior to her representation, when in fact the written agreement was
15 signed after plaintiff had already received the benefit of counsel’s work.

16 Accordingly, IT IS HEREBY ORDERED that counsel’s renewed Motion for Attorney
17 Fees Pursuant to 42 U.S.C. § 406(b) (ECF No. 29), is DENIED without prejudice to its renewal in
18 proper form within 30 days.

19 DATED: January 27, 2017

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21 ALLISON CLAIRE
22 UNITED STATES MAGISTRATE JUDGE

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28 ² The agreement also comes after counsel’s brief was filed in opposition to defendant’s motion to
alter or amend the judgment. See ECF Nos. 19, 21 (July 30, 2015).