

1 JESSE S. KAPLAN CSB# 103726
2 5441 Fair Oaks Bl. Ste. C-1
3 Carmichael, CA 95608
4 (916) 488-3030
5 (916) 489-9297 fax

6 Attorney for Plaintiff
7 DeANDRE SHOWERS

8
9 UNITED STATES DISTRICT COURT
10
11 FOR THE EASTERN DISTRICT OF CALIFORNIA

12 -o0o-

13
14
15 DeANDRE SHOWERS,

16 Plaintiff,

17
18
19 v.

20 Carolyn Colvin,
21 ACTING COMMISSIONER OF SOCIAL
22 SECURITY,

23 Defendant.
24 _____/

No. 2:16-CV-00053-CKD

STIPULATED REQUEST FOR
STAY OF MOTION FOR
406(b) ATTORNEY FEES
PENDING DETERMINATION
OF PLAINTIFF'S PAST-DUE
BENEFITS;
ORDER

25 IT IS HEREBY STIPULATED between plaintiff and defendant, though their respective
26
27 counsel the undersigned, that proceedings on plaintiff's motion for attorney fees under 42
28

1 U.S.C. §406(b) be stayed pending defendant agency's full determination of the exact amount
2 of retroactive benefits due plaintiff, on which amount the attorney fee motion is based.
3

4 Plaintiff filed this motion in order to avoid any question regarding timeliness. However,
5 the motion itself indicates uncertainty about the amounts involved and explains why. The
6 situation here is rather complicated. As a result of an earlier administrative law judge decision
7 before this case reached this Court, plaintiff began receiving Supplemental Security Income
8 payments. Following this Court's decision, remand, and a subsequent ALJ decision, plaintiff
9 was found disabled as of the earlier date he had alleged. This entitles him to further, earlier
10 SSI benefits and also to Disabled Adult Child Social Security benefits.
11

12
13 As of when plaintiff filed his attorney fee motion, first one notice and then another had
14 issued regarding his DAC benefits, one based on his mother's earnings record and the other based
15 on his father's. Only a few days ago, an SSI award notice issued. However, integration of all these
16 differing amounts has not been performed by the agency, so the actual back benefit amount on
17 which plaintiff's motion is predicated remains unknown.
18

19
20 Plaintiff will almost certainly have to file a slightly amended motion, modifying the
21 amounts discussed and requested.

22 THE PARTIES STIPULATE that, with the Court's permission, proceedings on plaintiff's
23 attorney fee motion be stayed until the agency calculates the integrated and combined benefit
24 amount and plaintiff files an amended motion incorporating that new information.
25

26 SO STIPULATED.

27 DATED: December 11, 2018

/s/ Jesse S. Kaplan

28

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

JESSE S. KAPLAN
Attorney for Plaintiff
DeANDRE SHOWERS

McGREGOR SCOTT
United States Attorney
DEBORAH LEE STACHEL
Acting Regional Counsel, Region IX
Social Security Administration

DATED: December 11, 2018

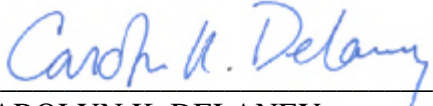
/s/ per e-mail authorization
BEN A. PORTER
Special Assistant U.S. Attorney
Attorney for Defendant

ORDER

For good cause shown on the basis of this stipulation, the requested stay is granted. Plaintiff shall file an amended motion for attorney fees within 30 days of receiving the agency's notice determining plaintiff's actual past-due benefits.

SO ORDERED.

Dated: December 14, 2018



CAROLYN K. DELANEY
UNITED STATES MAGISTRATE JUDGE