1		
2		
3		
4		
5		
6		
7		
8	UNITED STATES DISTRICT COURT	
9	FOR THE EASTERN DISTRICT OF CALIFORNIA	
10		
11	ELYSE MARIE MYERS,	No. 2:17-cv-02582-KJN
12	Plaintiff,	<u>ORDER</u>
13	v.	
14	COMMISSIONER OF SOCIAL	
15	SECURITY,	
16	Defendant.	

Presently pending before the court is plaintiff's counsel's motion for attorneys' fees, brought pursuant to 42 U.S.C. § 406(b). (ECF No. 31.) On September 11, 2020, this court ordered the Commissioner to file a response or statement of non-opposition and for plaintiff's counsel to attest that plaintiff was served with a copy of the motion for attorneys' fees and this court's order. (ECF No. 32.) While the Commissioner filed a statement of non-opposition (ECF No. 33), plaintiff's counsel has not filed the ordered material. This court's previous order instructed counsel to serve plaintiff with the pending motion and this court's order within five days of its issuance, i.e., September 16, 2020, at which point the court would deem the matter submitted on October 5, 2020. Counsel's failure to file the required documents prevents this court from ruling on the present motion. See Atkins v. Astrue, 2012 WL 5350265, at \*5 (N.D. Cal. Oct. 29, 2012) (describing counsel's "failure to show that [plaintiff] received notice" of counsel's motion under section 406(b) as a "deficiency" and denying the motion partially for that

reason).

Counsel is again ORDERED to serve the motion for attorneys' fees (ECF No. 31) and this order on plaintiff, within five days of its issuance, and to file an attestation to the same. Plaintiff shall have until November 12, 2020, to file a response if she so chooses. Counsel is reminded that failure to follow this court's order may result in denial of its motion.

UNITED STATES MAGISTRATE JUDGE

Dated: October 8, 2020

2582.osc