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UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

MERCEDES M. HARRISON,
Plaintiff,
v.
NANCY A. BERRYHILL,
Defendant.

Case No. [16-cv-02371-JCS](#)

**ORDER REGARDING REQUEST FOR
ATTORNEYS' FEES**

Re: Dkt. No. 49

Plaintiff Mercedes Harrison’s counsel Josephine Gerrard filed a proposed order awarding fees in the amount of \$23,700 pursuant to 42 U.S.C. § 406(b) and Plaintiff’s contingent fee agreement. Dkt. 49. Defendant Nancy Berryhill, Acting Commissioner of Social Security (the “Commissioner”), filed a response taking no position on the request but providing additional background on applicable rules. The Court tentatively finds the amount of the request, which is significantly below the maximum amount authorized under § 406(b), to be reasonable and well-founded. However, the request is deficient in two respects.

First, counsel did not file a motion as required by this Court’s local rules. *See* Civ. L.R. 7-1(a) (“Any written request to the Court for an order must be presented by one of the following means”). To avoid unnecessary and duplicative effort, the Court in this instance excuses that requirement and deems the proposed order to be a motion, but counsel is admonished to comply with applicable rules going forward, including in other cases.

Second, and more importantly, there is no indication that Harrison herself was served with counsel’s request or given an opportunity to object. Counsel is instructed to serve a copy of (1) her proposed order, (2) the Commissioner’s response, and (3) this order on Harrison, by any means reasonably calculated to provide actual notice, and to file proof of service to that effect no

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later than March 18, 2019. If Harrison opposes her attorney's request for fees, she may file a response no later than April 1, 2019.

IT IS SO ORDERED.

Dated: March 11, 2019



JOSEPH C. SPERO
Chief Magistrate Judge