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2		<i>E-filed</i> : <u>1/21/10</u>	
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7	IN THE UNITED STATES DISTRICT COURT		
8	FOR THE NORTHERN DISTRICT OF CALIFORNIA		
9	SAN JOSE DIVISION		
10			
11	JACK REINKE,	No. C-04-2279 RMW	
12	Plaintiff,	ORDER RE MOTION FOR ATTORNEY"S FEES UNDER 42 U.S.C. §406(b)	
13	v.	1 LLS CNDLR 42 0.S.C. §400(0)	
14	MICHAEL J. ASTRUE ¹ , Commissioner, Social Security Administration,		
15	Defendant.		
16			
17	Plaintiff filed a motion for an award of attorney's fees under 42 U.S.C. §406(b). Specifically		
18	plaintiff's counsel seeks an award of \$8,000 in attorney's fees for successfully representing plaintiff		
19	in obtaining an award of \$83,909.50 in past-due benefits.		
20	The motion is based on Section 406(b) and a 25 percent contingent-fee agreement between		
21	counsel and client. The fee agreement submitted with the motion, however, was entered into after		
22	the completion of the case and after past-due benefits had been awarded. Although it recites that it		
23	is a contingent fee agreement, the express terms establish that there is nothing contingent about the		
24	agreement. Instead, it is a fixed fee agreement, after the results were known, pursuant to which the		
25	client has agreed to pay counsel in excess of \$542	per hour, so that counsel's fees would be \$8,000.	
26			
27	1 Michael I. A. d. L. C. d. d.	and the Control Court is Additional to the Control Court in the	
28	¹ Michael J. Astrue became Commissioner of the Social Security Administration on February 1, 2007. Pursuant to Ruled 25(d)(1) of the Federal Rules of Civil Procedure, Michael J. Astrue is hereby substituted for Jo Anne B. Barnhart as the Defendant in this matter.		
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Counsel has not, however, offered any evidence to establish the terms of the attorney-client fee agreement entered into at the outset of his representation.

Accordingly, plaintiff's counsel is directed to submit to the court a copy of the fee agreement entered into at the outset of the case, or if none exists, then a declaration to explain the terms of the fee agreement originally entered into between client and counsel at the outset of the case and to explain how such an agreement differs in any material respect from the written agreement executed on January 7, 2008 which has been submitted to the court.

Plaintiff's counsel shall file this supplemental evidence on or before January 29, 2010.

1/21/10

United States District Judge

mald m white

1	Notice of this document has been sent to:	
2	Counsel for Plaintiff:	
3	Terry LaPorte	
4	terry@terrylaporte.com	
5		
6	Counsel for Defendant:	
7 8	Nancy Marie Lisewski nancy.lisewski@ssa.gov	
9	Sara Winslow sara.winslow@usdoj.gov	
12		
13 14 15	Date: 1/21/10	TER Chambers of Judge Whyte
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	ORDER 04-2279 RMW TER	3