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**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA**

MAXINE E. ARMSTRONG,

Plaintiff,

v.

MICHAEL J. ASTRUE, Commissioner of
Social Security,

Defendant.

CASE NO. 05 CV 0999 JM (JMA)

**ORDER GRANTING MOTION
FOR ATTORNEY FEES
PURSUANT TO 42 U.S.C. § 406(b)**

Doc. No. 25

Pending before the court is Plaintiff Maxine E. Armstrong's motion for attorney fees pursuant to section 206(b) of the Social Security Act, 42 U.S.C. § 406(b). (Doc. No. 25.) Plaintiff requests an award of \$13,222.50 as a reasonable attorney fee for her counsel's representation of her on a contingency-fee basis in this action. A sum of \$4,000.00 was previously awarded pursuant to the Equal Access to Justice Act. (Doc. No. 15.) Therefore, Plaintiff now asks the court to approve distribution of the difference, \$9,220.50, out of the funds withheld by the Commissioner from Plaintiff's past due benefits for payment of attorney fees, and return of the balance of the withheld funds, \$4,000.00, to Plaintiff. On July 31, 2009, the Commissioner filed a statement of non-opposition to Plaintiff's request. (Doc. No. 27.)

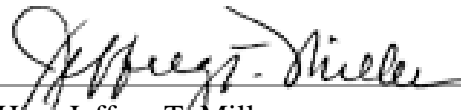
Plaintiff's motion is supported by sufficient documentation and support to show the attorney fee was reasonable. See 42 U.S.C. § 406(b)(1)(A) ("the court may determine and allow as part of its judgment a reasonable fee for such representation, not in excess of 25 percent of the total of the past-

1 due benefits”); Gisbrecht v. Barnhart, 535 U.S. 789 (2002). In addition, Plaintiff submitted
2 documentation which indicates the Commissioner withheld \$13,220.50 with the 25 percent threshold
3 in mind and that Plaintiff agreed to pay a contingency fee of 25 percent. (Mot., Att. B and C.)

4 In light of the evidence provided by Plaintiff, as well as the Commissioner’s non-opposition,
5 the court hereby **GRANTS** Plaintiff’s motion for attorney fees. Accordingly, the court awards
6 attorney fees pursuant to 42 U.S.C. § 406(b) in the amount of \$13,220.50 and orders distribution of
7 funds withheld by the Commissioner for this purpose as outlined above.

8 **IT IS SO ORDERED.**

9 DATED: August 26, 2009

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12 Hon. Jeffrey T. Miller
13 United States District Judge
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