

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLORADO
Judge R. Brooke Jackson

Civil Action No. 10-cv-03169-RBJ

CATHRYN M. LOPEZ,

Plaintiff,

v.

MICHAEL J. ASTRUE, Commissioner of Social Security,

Defendant.

ORDER

This matter is before the Court on Plaintiff's Motion for an Award of Attorney's Fees Under 42 U.S.C. § 406(b) [ECF No. 30]. Pursuant to this motion, counsel requests an additional fee award to fill the gap between (1) the fees to which he would have been entitled pursuant to 42 U.S.C. § 406(b) and his fee agreement with the client, and (2) the fees he has already recovered pursuant to the Equal Access to Justice Act, 28 U.S.C. § 2412. The motion is unopposed.

The Court has reviewed the file and the fees requested. Counsel has stayed with this case doggedly through four district court remands until finally recovering benefits for the client in the amount of \$136,537. His fee agreement calls for a contingency fee of 25% of that amount or \$34,134.25. Having received \$23,260 in fees under the EAJA, he now seeks an additional \$10,874.25. In assessing the reasonableness of the amount, the Court considers the character of the representation and the results the representative achieved. *Gisbrecht v. Barnhart*, 535 U.S. 789, 808 (2002). The Court finds that counsel has competently and successfully pursued his

client's best interests. Although the typical "lodestar" calculation is not applicable in this instance, the Court notes that if it did apply the lodestar method the fees would amount to approximately \$77 per hour for all of the district court work in the case. [ECF No. 30 at 2 n.1]. Looking at the fees for the entire life of the case has been held to be appropriate under section 406(b). *Parrish v. Comm'r of Soc. Sec. Admin.*, 698 F.3d 1215, 1220–21 (9th Cir. 2012). Even looking just to the most recent part of the case, the award would amount to \$221.02 per hour, which is within the range of reasonable rates for commercial litigation in this community and not much higher than the applicable statutory maximum hourly rate of \$175 (adjusted for the cost of living for work performed in 2010) under the EAJA.

Accordingly, the Court finds that the additional fees requested are reasonable and hereby ORDERS that the plaintiff, Cathryn M. Lopez, on behalf of her attorney, Frederick W. Newall, is entitled to an award of fees under 42 U.S.C. § 406(b) in the amount of \$10,874.25. The check for fees shall be made payable to Frederick W. Newall and mailed to his office at 730 N. Weber St., Suite #101, Colorado Springs, CO 80903.

DATED this 2nd day of June, 2015.

BY THE COURT:

A handwritten signature in black ink, appearing to read "Brooke Jackson", written over a horizontal line.

R. Brooke Jackson
United States District Judge