

**UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF LOUISIANA
LAKE CHARLES DIVISION**

RODNEY J. PICKENS

CIVIL ACTION NO. 07-2240

VS.

JUDGE MELANCON

**MICHAEL J. ASTRUE, Commissioner
Social Security Administration**

MAGISTRATE JUDGE HANNA

ORDER

Before the court is a Dual Motion for Attorney's Fees Under the Social Security Act [42 U.S.C. § 406(b) and under the Equal Access to Justice Act [28 U.S.C. § 2412] (Rec. Doc. 18). The Commissioner has filed a response to motion, stating he has no opposition to the award.¹

Counsel for Pickens, Mr. James Spruel, Jr., seeks a total of \$ 4,012.50 in attorney's fees for 27 hours of work, representing an hourly rate of \$125.00 for 1.5 hours of work in 2007, and an hourly rate of \$150.00 for 25.5 hours of work performed since December 31, 2007.

In support of his request, counsel submitted a petition describing the services performed on behalf of his client and an exhibit detailing the time billed in connection with each task in minimal increments of .25 hours. Counsel also submitted a contingency fee agreement which limits the contingency fee to no greater than 25 percent of appellant's past-due benefits. Under section 206(b) of the SSA and the EAJA, if attorney's fees are awarded under both provisions, the appellant must be refunded the amount of the smaller fee.

The undersigned finds the requested attorney's fee reasonable, and given the lack of opposition by the Commissioner,

IT IS ORDERED that the Dual Motion for Attorney's Fees Under the Social Security

¹Rec. Doc. 20.

Act [42 U.S.C. § 406(b) and under the Equal Access to Justice Act [28 U.S.C. § 2412] (Rec. Doc. 18) is **GRANTED** and the Commissioner of the Social Security Administration shall forward a check payable to James Spruel, Jr.

- 1) In the amount of \$ 4012.50, for attorney's fees pursuant to section 206(b) of the EAJA;
- 2) For a reasonable attorney's fee, pursuant to section 206(b) of the Social Security Act, in accordance with the contingency representation agreement and not to exceed 25 percent of appellant's past-due benefits, with certification of direct payment from past due benefits awarded in compliance with the September 10, 2009, judgment.

IT IS FURTHER ORDERED that counsel shall immediately refund to Pickens the amount of the smaller fee awarded under these provisions, if fees for the same work are awarded under both sections 206(b) of the Social Security Act and 206(b) of the EAJA.

Signed in Lafayette, Louisiana, this 15th day of December, 2009.


Patrick J. Hanna
United States Magistrate Judge