

Law Office of
LEWIS B. INSLER

Phone 914 980-2561

inslerlb3@verizon.net

17 Newcomb Place
White Plains, NY 10606

January 15, 2020

Hon. Kenneth M. Karas, USDJ
Charles Brieant United States Courthouse
300 Quarropas St
White Plains, NY 10601

Re: *Scuderi v Berryhill*, 17-cv-1324

MEMO ENDORSED

I am plaintiff's attorney in the above matter, a Social Security disability matter that was remanded some time ago. Administrative Counsel made me aware in December, 2019 that Mr. Scuderi received a fully favorable decision dated August 2019 after the matter was remanded. There has been no Notice of Award issued yet, but based upon the Trial Amount found in the administrative record and the number of months of retroactive benefits to which plaintiff is entitled there should be over \$100,000 in retroactive benefits and thus about \$25,000 will be withheld by statute for possible attorney fees.

I have nearly spent over 16 hours of time on this matter and was awarded and received a fee under EAJA of \$3100. Thus I expect to be requesting an additional fee under 42 USC 406(b), with the exact amount to be determined, depending on the amount requested by administrative counsel.

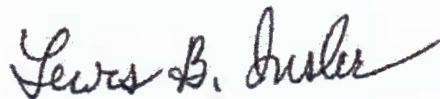
I am writing at this time to ask that the court equitably toll the 14 day period to file for attorney fees under 42 USC 406(b) until such time as the I have received the Notice of Award from Administrative Counsel to determine the amount withheld for attorney fees and what the request will be for administrative fees. This is necessary based upon the recent Second Circuit decision in Sinkler v Berryhill, 932 F 3d 83 (2d Cir 2019) which requires that the petition under 406(b) be filed within 14 days of the date the attorney receives the Notice of Award but that "district Courts are empowered to enlarge that filing period when circumstances warrant." Sinkler at 393.

The Defendant will only send the Notice of Award to administrative counsel and the plaintiff.

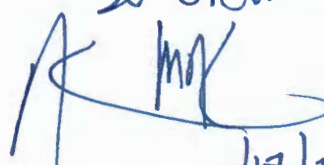
Thus I am dependent on counsel to provide me with a copy of the Notice and to confirm the amount of the administrative fee being requested under 406(a). While counsel and I have discussed this, and he is aware of the new limitations under Sinkler, I have no control over when I will receive the Notice of Award. Further, I will be out of the office from January 27 through February 12, 2020. However I will file my petition as expeditiously as possible upon receipt of the Notice from counsel, even if it received while I am out of the office.

I thank the court for its anticipated cooperation in this matter and look forward to your determination concerning this motion.

Respectfully submitted,



Lewis B. Insler (115441)

Granted.
So ordered.

1/17/20