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8 UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
9 AT TACOMA

10 ROBERT WILLIAM SHIPE, Jr.,

11 Plaintiff,

12 v.

13 CAROLYN W COLVIN, Acting
14 Commissioner of the Social Security
Administration,

15 Defendant.

CASE NO. 13-cv-05912 JRC

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

16 This Court has jurisdiction pursuant to 28 U.S.C. § 636(c), Fed. R. Civ. P. 73 and Local
17 Magistrate Judge Rule MJR 13 (*see also* Notice of Initial Assignment to a U.S. Magistrate Judge
18 and Consent Form, Dkt. 5; Consent to Proceed Before a United States Magistrate Judge, Dkt. 6).

19 This matter is before the Court on plaintiff's Motion for Attorney's Fees Pursuant to 42 U.S.C. §
20 406(b) (*see* Dkt. 25). Defendant has no objection to plaintiff's request (*see* Dkt. 26).

21 The Court may allow a reasonable fee for an attorney who represented a Social Security
22 Title II claimant before the Court and obtained a favorable judgment, as long as such fee is not in
23 excess of 25 percent of the total of past-due benefits. *See* 42 U.S.C. § 406(b)(1); *Grisbrecht v.*
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1 | *Barnhart*, 535 U.S. 789 (2002). When a contingency agreement applies, the Court will look first
2 | to such agreement and will conduct an independent review to assure the reasonableness of the
3 | fee requested, taking into consideration the character of the representation and results achieved.
4 | *See Grisbrecht*, *supra*, 535 U.S. at 807, 808 (footnote omitted) (citations omitted). Although the
5 | fee agreement is the primary means for determining the fee, the Court will adjust the fee
6 | downward if substandard representation was provided, if the attorney caused excessive delay, or
7 | if a windfall would result from the requested fee. *See Crawford v. Astrue*, 586 F.3d 1142, 1151
8 | (9th Cir. 2009) (*citing Grisbrecht*, *supra*, 535 U.S. at 808).

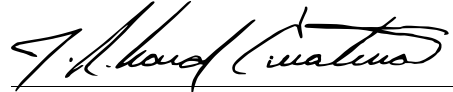
9 | Here, the representation was standard, at least, and the results achieved excellent (*see*
10 | Dkt. 25, Attachment 3). *See Grisbrecht*, *supra*, 535 U.S. at 808. Defendant stipulated to remand
11 | the matter subsequent to plaintiff's filing of her Opening Brief, and after plaintiff's second
12 | hearing, the ALJ awarded benefits to plaintiff (Dkt. 25, Attachment 1, p. 1). There has not been
13 | excessive delay and no windfall will result from the requested fee.

14 | Plaintiff's total back payment was \$67,696.00 (*see id.*, Attachment 3). Plaintiff has
15 | moved for a net attorney's fee of \$10,924.00 (*see Motion*, Dkt. 25, p. 1), and the Court has
16 | considered plaintiff's gross attorney's fee of \$16,924.00 (25% of past due benefits); the
17 | administrative attorney's fee of \$6,000.00; and the EAJA award received by plaintiff's attorney
18 | in the amount of \$5,289.07 that was garnished pursuant to the Department of the Treasury's
19 | Offset program (*see Dkt. 25*, Attachment 7). *See* 31 U.S.C. §§ 3711(a), 3716(a); *Astrue v. Ratliff*,
20 | 560 U.S.C. 586, 589, 593, 130 S.Ct. 2521, 2524, 2527 (2010); *Parish v. Comm'r. Soc. Sec.*
21 | *Admin.*, 698 F.3d 1215, 1221 (9th Cir. 2012).

22 | Based on plaintiff's motion and supporting documents (*see Dkt. 25* and Attachments 1-
23 | 7), and with no objection from defendant (Dkt. 26), it is hereby ORDERED that attorney's fees
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1 in the amount of \$10,924.00 be awarded to plaintiff's attorney pursuant to 42 U.S.C. § 406(b).
2 When issuing the 42 U.S.C. § 406(b) check for payment to plaintiff's attorney herein, Social
3 Security is directed to send to plaintiff's attorney \$10,924.00, minus any applicable processing
4 fees as allowed by statute.

5 Dated this 22nd day of July, 2016.

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7 J. Richard Creatura
8 United States Magistrate Judge
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