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

10 RICHARD E. COLWELL,

11 Plaintiff,

12 v.

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

15 Defendant.

CASE NO. 13-cv-05913 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. 6; Consent to Proceed Before a United States Magistrate Judge, Dkt. 7).

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. 26). Defendant has no objection to plaintiff's request (*see* Dkt. 27).

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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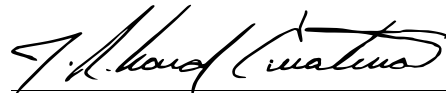
1 | *Barnhart*, 535 U.S. 789 (2002). When a contingency agreement applies, the Court will look first
2 | to such agreement and will conduct an independent review to assure the reasonableness of the
3 | fee requested, taking into consideration the character of the representation and results achieved.
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. 26 Attachments 3, 8). *See Grisbrecht, supra*, 535 U.S. at 808. Following this Court's
11 | remand (Dkt. 20) and a second hearing, the ALJ awarded benefits to plaintiff (Dkt. 26,
12 | Attachment 1, p. 1). There has not been excessive delay and no windfall will result from the
13 | requested fee.

14 | Plaintiff's total back payment for Title II benefits was \$44,322.00 (through July, 2016)
15 | and for Title XVI benefits was \$2,246.70 (February to June, 2011) for a total of \$46,568.70 (*see*
16 | *id.*, Attachments 1, 3, 8). Plaintiff has moved for a net attorney's fee of \$4,308.04 (*see* Motion,
17 | Dkt. 26, p. 1), and the Court has considered plaintiff's gross attorney's fee of \$11,642.17; and the
18 | EAJA award received by plaintiff's attorney in the amount of \$7,334.13 (\$8,139.62 minus
19 | \$24.49 expenses and the \$781.00 offset to that EAJA award that was seized pursuant to the
20 | Department of the Treasury's Offset program) (*see* Dkt. 25; Dkt. 26, Attachment 7). *See* 31
21 | U.S.C. §§ 3711(a), 3716(a); *Astrue v. Ratliff*, 560 U.S.C. 586, 589, 593, 130 S.Ct. 2521, 2524,
22 | 2527 (2010); *Parish v. Comm'r. Soc. Sec. Admin.*, 698 F.3d 1215, 1221 (9th Cir. 2012).

1 Based on plaintiff's motion and supporting documents (*see* Dkt. 26, Attachments 1, 2, 3,
2 4, 5, 6, 7, 8), and with no objection from defendant (Dkt. 27), it is hereby ORDERED that
3 attorney's fees in the gross amount of \$11,642.17 be awarded to plaintiff's attorney pursuant to
4 42 U.S.C. § 406(b), thus, after the subtraction of previously received EAJA fees (\$7,334.13),
5 leaving net attorney's fees in the amount of \$4,308.04 remaining to be awarded to plaintiff's
6 attorney pursuant to 42 U.S.C. § 406(b). After the \$4,308.04 in fees are paid to plaintiff's
7 attorney based on this Order, the balance of withheld funds should be released to plaintiff.

8 Dated this 4th day of January, 2017.

9 

10 J. Richard Creatura
11 United States Magistrate Judge