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UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON  
AT TACOMA

JAMES M. CARSON,

Plaintiff,

v.

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

Defendant.

CASE NO. 13-cv-05932 JRC

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

This Court has jurisdiction pursuant to 28 U.S.C. § 636(c), Fed. R. Civ. P. 73 and Local Magistrate Judge Rule MJR 13 (*see also* Notice of Initial Assignment to a U.S. Magistrate Judge and Consent Form, ECF No. 6; Consent to Proceed Before a United States Magistrate Judge, ECF No. 7). This matter is before the Court on plaintiff’s Motion for Attorney’s Fees Pursuant to 42 U.S.C. § 406(b) (*see* ECF No. 26). Defendant has no objection to plaintiff’s request (*see* ECF No. 27).

The Court may allow a reasonable fee for an attorney who represented a Social Security Title II claimant before the Court and obtained a favorable judgment, as long as such fee is not in

1 | excess of 25 percent of the total of past-due benefits. *See* 42 U.S.C. § 406(b)(1); *Grisbrecht v.*  
2 | *Barnhart*, 535 U.S. 789 (2002). When a contingency agreement applies, the Court will look first  
3 | to such agreement and will conduct an independent review to assure the reasonableness of the  
4 | fee requested, taking into consideration the character of the representation and results achieved.  
5 | *See Grisbrecht, supra*, 535 U.S. at 807, 808 (footnote omitted) (citations omitted). Although the  
6 | fee agreement is the primary means for determining the fee, the Court will adjust the fee  
7 | downward if substandard representation was provided, if the attorney caused excessive delay, or  
8 | if a windfall would result from the requested fee. *See Crawford v. Astrue*, 586 F.3d 1142, 1151  
9 | (9th Cir. 2009) (*citing Grisbrecht, supra*, 535 U.S. at 808).

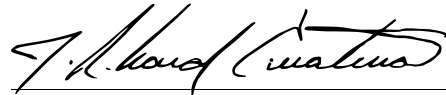
10 |         Here, the representation was standard, at least, and the results achieved excellent (*see*  
11 | ECF No. 26, Attachment 3). *See Grisbrecht, supra*, 535 U.S. at 808. This Court remanded for  
12 | further proceedings (*see* ECF No. 20) and following the second hearing, the ALJ awarded  
13 | disability benefits to plaintiff (ECF No. 26, Attachment 1, p. 1, Attachment 3) There has not  
14 | been excessive delay and no windfall will result from the requested fee.

15 |         The Social Security Administration (“SSA”) has withheld \$17,637.00 from plaintiff’s  
16 | past-due benefits to pay attorney’s fees (*see* ECF No. 16, Attachment 3, p. 3). Plaintiff has  
17 | moved for a net attorney’s fee of \$11,323.40 (*see* Motion, ECF No. 26, p. 1), and the Court has  
18 | considered plaintiff’s gross attorney’s fee of \$17,637.00 and the EAJA award received by  
19 | plaintiff’s attorney in the amount of \$6,313.60 (ECF No. 25). *Parish v. Comm’r. Soc. Sec.*  
20 | *Admin.*, 698 F.3d 1215, 1221 (9th Cir. 2012).

21 |         Based on plaintiff’s motion and supporting documents (*see* ECF No. 26, 26-1, 26-3, 26-4,  
22 | 26-5, 26-6), and with no objection from defendant (ECF No. 27), it is hereby ORDERED that  
23 | attorney’s fees in the amount of \$11, 323.40 (\$17,637.00 minus \$6,313.60) be awarded to  
24 |

1 plaintiff's attorney pursuant to 42 U.S.C. § 406(b). When issuing the 42 U.S.C. § 406(b) check  
2 for payment to plaintiff's attorney, the Social Security Administration is directed to send to  
3 plaintiff's attorney the net balance of \$11,323.40, minus any applicable processing fees as  
4 allowed by statute. After paying the attorney's fees, the Social Security Administration shall  
5 release all remaining funds directly to plaintiff.

6 Dated this 18th day of November, 2015.

7 

8 J. Richard Creatura  
9 United States Magistrate Judge