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UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT TACOMA

DAVID L. WHIPPLE,

Plaintiff,

v.

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

Defendant.

CASE NO. 13-cv-06079 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, Dkt. 3; Consent to Proceed Before a United States Magistrate Judge, Dkt. 4).

This matter is before the Court on plaintiff’s Motion for Attorney’s Fees Pursuant to 42 U.S.C. § 406(b) (*see* Dkt. 31). Defendant has no objection to plaintiff’s request (*see* Dkt. 36).

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 excess of 25 percent of the total of past-due benefits. *See* 42 U.S.C. § 406(b)(1); *Grisbrecht v.*

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. 31, Attachment 3). *See Grisbrecht*, *supra*, 535 U.S. at 808. After full briefing, this Court
11 | ordered that this matter be reversed and remanded for further administrative proceedings (*see*
12 | Dkt. 25). After a hearing before an Administrative Law Judge, the ALJ awarded disability
13 | benefits to plaintiff at an additional hearing (Dkt. 31, Attachment 1, p. 1). In addition, there has
14 | not been excessive delay and no windfall will result from the requested fee.

15 | Plaintiff's total back payment was \$51,888.00 (*see* Dkt. 31, Attachment 3, p. 2). Plaintiff
16 | has moved for a net attorney's fee of \$6,972.00 (*see* Motion, Dkt. 31, p. 1), and the Court has
17 | considered the gross attorney's fee of \$12,972.00 (*see* Dkt. 31, Attachment 3) and the EAJA
18 | award received by plaintiff's attorney in the amount of \$5,218.44 (*see* Dkt. 30), plus plaintiff's
19 | additional voluntary reduction of \$781.56. *Parish v. Comm'r. Soc. Sec. Admin.*, 698 F.3d 1215,
20 | 1221 (9th Cir. 2012).

21 | Based on plaintiff's motion and supporting documents (*see* Dkt. 31, Attachments 1, 3, 4,
22 | 5, 6), and with no objection from defendant (Dkt. 36), it is hereby ORDERED that attorney's
23 | fees in the amount of \$6,972.00 be awarded to plaintiff's attorney pursuant to 42 U.S.C. §
24 |

1 406(b). This amount should be sent to plaintiff's attorney, minus any applicable processing fees
2 as allowed by statute.

3 Dated this 24th day of August, 2016.

4 

5 J. Richard Creatura
6 United States Magistrate Judge