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

10 RICHARD E. STEARNS,

11 Plaintiff,

12 v.

13 NANCY A. BERRYHILL, Acting
Commissioner of the Social Security
Administration,

14
15 Defendant.

CASE NO. 3:14-cv-05611 JRC

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

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17 This Court has jurisdiction pursuant to 28 U.S.C. § 636(c), Fed. R. Civ. P. 73 and Local
18 Magistrate Judge Rule MJR 13 (*see also* Notice of Initial Assignment to a U.S. Magistrate Judge
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. 38. Defendant has no objection to plaintiff's motion. *See* Dkt. 39.

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).

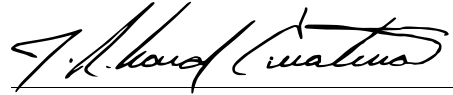
9 Here, the representation was standard, at least, and the results achieved excellent (*see*
10 Dkt. 38, Attachments 1, 3). *See Grisbrecht, supra*, 535 U.S. at 808. Following remand from this
11 Court for further consideration (*see* Dkts. 31, 38, Attachment 1), plaintiff was awarded benefits.
12 There has not been excessive delay and no windfall will result from the requested fee.

13 Plaintiff's total back payment was \$91,880.00. *See* Dkt. 38, Attachments 1, 3. Plaintiff
14 has moved for a net attorney's fee of \$15,393.24 (*see id.*), and the Court has considered
15 plaintiff's gross attorney's fee of \$22,970.00 and the EAJA award received by plaintiff's
16 attorney in the amount of \$7,576.76. *Parish v. Comm'r. Soc. Sec. Admin.*, 698 F.3d 1215, 1221
17 (9th Cir. 2012).

18 Based on plaintiff's motion and supporting documents (*see* Dkt. 38, Attachments 1, 3, 4,
19 5, 6), and without objection from defendant (*see* Dkt. 39), it is hereby ORDERED that attorney's
20 fees in the amount of \$22,970.00 be awarded to plaintiff's attorney pursuant to 42 U.S.C. §
21 406(b). Because \$7,576.76 already has been paid to plaintiff's attorney, \$15,393.24, minus any
22 applicable processing fees as allowed by statute, should now be released to plaintiff's attorney by
23 the Administration. After releasing this \$15,393.24, minus any applicable processing fees, to
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1 | plaintiff's attorney, the Social Security Administration is to release all remaining funds to
2 | plaintiff.

3 | Dated this 31st day of July, 2017.

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5 | J. Richard Creatura
6 | United States Magistrate Judge

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