

1  
2  
3  
4  
5  
6  
7  
8 UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON  
9 AT TACOMA

10 ELLEN K. KENNETT,

11 Plaintiff,

12 v.

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

15 Defendant.

CASE NO. 14-cv-05770 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 Amended Motion for Attorney's Fees Pursuant to  
20 42 U.S.C. § 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.*  
24

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).

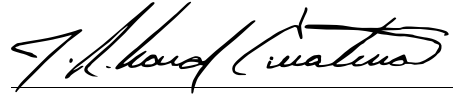
9 |         Here, the representation was standard, at least, and the results achieved excellent (*see*  
10 | Dkt. 26, Attachments 3, 7). *See Grisbrecht, supra*, 535 U.S. at 808. This Court remanded this  
11 | matter to the Administration for further proceedings and following a second hearing, the  
12 | Administrative Law Judge awarded disability benefits to plaintiff (*see* Dkt. 26, Attachments 1,  
13 | 3). There has not been excessive delay and no windfall will result from the requested fee.

14 |         Plaintiff's total back payment was \$42,019.30 (*see* Dkt. 26, Attachments 3, 7). Plaintiff  
15 | has moved for a net attorney's fee of \$439.80 (*see* Amended Motion, Dkt. 26, p. 1), and the  
16 | Court has considered plaintiff's gross attorney's fee of \$10,504.82; the EAJA award received by  
17 | plaintiff's attorney in the amount of \$6,300.71 (Dkt. 26, Attachment 6); and the additional  
18 | voluntary reduction of \$3,764.31 (*see* Dkt. 26, p. 1). *Parish v. Comm'r. Soc. Sec. Admin.*, 698  
19 | F.3d 1215, 1221 (9th Cir. 2012).

20 |         Based on plaintiff's motion and supporting documents (*see* Dkt. 26, Attachments 1, 3, 4,  
21 | 5, 6, 7), and with no objection from defendant (Dkt. 28), it is hereby ORDERED that attorney's  
22 | fees in the amount of \$439.80, minus any applicable processing fees as allowed by statute, be  
23 |  
24 |

1 awarded to plaintiff's attorney pursuant to 42 U.S.C. § 406(b). After paying the attorney's fees,  
2 Social Security shall release all remaining funds directly to plaintiff.

3 Dated this 30th day of August, 2016.

4   
5 \_\_\_\_\_  
6 J. Richard Creatura  
7 United States Magistrate Judge  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24