

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

8 DAVID POULIN,

9 Plaintiff,

10 v.

11 NANCY A. BERRYHILL, Acting
Commissioner of Social Security,

12 Defendant.

CASE NO. 3:16-CV-05752-DWC

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

13
14 Presently before the Court is Plaintiff David Poulin's Motion for Attorney's Fees
15 Pursuant to 42 U.S.C. § 406(b). Dkt. 23. Pursuant to 28 U.S.C. § 636(c), Federal Rule of Civil
16 Procedure 73 and Local Rule MJR 13, the parties have consented to have this matter heard by the
17 undersigned Magistrate Judge. *See* Dkt. 6.

18 Under 42 U.S.C. § 406(b), the Court may allow a reasonable fee for an attorney who
19 represented a Social Security Title II claimant before the Court and obtained a favorable
20 judgment, as long as such fee is not in excess of 25% of the total past-due benefits. *See*
21 *Grisbrecht v. Barnhart*, 535 U.S. 789 (2002). When a contingency agreement applies, the Court
22 will look first to such agreement and will conduct an independent review to assure the
23 reasonableness of the fee requested, taking into consideration the character of the representation
24 and results achieved. *See Grisbrecht*, 535 U.S. at 807, 808. Although the fee agreement is the

1 primary means for determining the fee, the Court may reduce the fee for substandard
2 representation, delay by the attorney, or because a windfall would result from the requested fee.
3 *See Crawford v. Astrue*, 586 F.3d 1142, 1151 (9th Cir. 2009) (citing *Grisbrecht*, 535 U.S. at
4 808).

5 Here, Plaintiff signed a contingency fee agreement agreeing to pay her attorney a fee
6 equal to 25% of the her past-due benefits. *See* Dkt. 23-3. The representation was not substandard
7 and the results achieved were excellent. *See* Dkt. 19, 23-4; *Grisbrecht*, 535 U.S. at 808. This
8 Court reversed and remanded this matter to the Administration for further proceedings and,
9 following remand and a second hearing, Plaintiff was awarded benefits. *See* Dkt. 19, 23-4. There
10 is no evidence of an excessive delay by the attorney or that a windfall will result from the
11 requested fee. Further, Defendant does not object to the requested fee. Dkt. 24.

12 Plaintiff moves for attorney's fees in the amount of \$10,371.25, which is less than 25% of
13 Plaintiff's total past-due benefits. *See* Dkt. 23, pp. 1, 3. Previously, Plaintiff was awarded an
14 attorney fee of \$4,605.05 under the Equal Access to Justice Act ("EAJA"). *See* Dkt. 22.
15 Therefore, Plaintiff is moving for a net attorney's fee award of \$5,766.20. Based on Plaintiff's
16 Motion and supporting documents (Dkt. 23, 23-1, 23-3– 23-4), and Defendant does not object to
17 the requested fee (Dkt. 24), the Court orders attorney's fees in the amount of \$5,766.20, minus
18 any applicable processing fees as allowed by statute, be awarded to Plaintiff's attorney pursuant
19 to 42 U.S.C. § 406(b). After paying the attorney's fee, the Social Security Administration shall
20 release all remaining funds directly to Plaintiff.

21 Dated this 14th day of February, 2018.

22
23 

24 David W. Christel
United States Magistrate Judge