

THE HONORABLE JOHN C. COUGHENOUR

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UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON  
AT SEATTLE

ERIN HEATHER AUE,  
  
Plaintiff,  
  
v.  
  
COMMISSIONER OF SOCIAL SECURITY,  
  
Defendant.

CASE NO. C17-5704-JCC  
  
ORDER

This matter comes before the Court on Plaintiff’s unopposed motion for attorney fees pursuant to 42 U.S.C. § 406(b) (Dkt. No. 19). Plaintiff’s attorney has requested \$4,980.00 for her representation of Plaintiff in federal court. (*Id.* at 1.) Defendant does not object to Plaintiff’s request. (Dtk. No. 25 at 1.) For the foregoing reasons, the Court GRANTS the motion.

Under § 406(b), a court entering judgment in favor of a social security disability insurance claimant who was represented by an attorney “may determine and allow as part of its judgment a reasonable fee for such representation, not in excess of 25 percent of the total of the past-due benefits to which the claimant is entitled by reason of such judgment.” In determining whether to grant a § 406(b) fee request, a court must first ensure that the requested fee is consistent with the contract between the plaintiff and their attorney. *See Crawford v. Astrue*, 586 F.3d 1142, 1148 (9th Cir. 2009) (citing *Gisbrecht v. Barnhart*, 535 U.S. 789, 808–09 (2002)). The court must then test the requested fee for reasonableness. *Id.* (citing *Gisbrecht*, 535 U.S. at

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1 808). Courts have broad discretion to decide if a fee request is reasonable or to adjust a fee  
2 downward if the request is unreasonable. *See Gisbrecht*, 535 U.S. at 808.

3 Here, the request of Plaintiff's attorney is appropriate under § 406(b). Plaintiff is entitled  
4 to past-due benefits totaling \$43,920.00. (Dkt. No. 21-5 at 3.) Plaintiff's attorney has requested  
5 an award of \$4,980.00 in attorney fees. (Dkt. No. 19 at 1.) This figure is significantly lower than  
6 the statutory cap and the 25 percent that Plaintiff agreed to pay her attorney. (*See* Dkt. No. 28 at  
7 1.) In addition, the figure is reasonable in light of the effective and efficient representation that  
8 Plaintiff's attorney provided in this case. Accordingly, the Court AWARDS Plaintiff's attorney  
9 an attorney fee of \$4,980.00 pursuant to 42 U.S.C. § 406(b). Defendant is DIRECTED to send a  
10 fee of \$4,980.00 to Plaintiff's attorney, minus any applicable processing fees as allowed by  
11 statute. On receipt of payment of the fee, Plaintiff's attorney is directed to refund to Plaintiff any  
12 amount of fees that Plaintiff's attorney received under the Equal Access to Justice Act, 28 U.S.C.  
13 § 2412.

14 DATED this 18th day of December 2019.

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18 John C. Coughenour  
19 UNITED STATES DISTRICT JUDGE  
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