

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF WISCONSIN

RICHARD MCNAUGHT,

Plaintiff,

v.

NANCY A. BERRYHILL, Acting
Commissioner of Social Security,

Defendant.

ORDER

15-cv-526-bbc

On October 12, 2017, I entered an order under 42 U.S.C. § 406(b), granting \$7,330.00 in fees to plaintiff Richard McNaught’s attorney, Dana Duncan, from plaintiff’s past due benefits. I also ordered release to plaintiff of the remaining portion of the statutory fee (\$10,881.25) that had been withheld by the Acting Commissioner.

Plaintiff’s counsel has filed an unopposed motion to modify the October 12 order to permit him to seek the remaining portion of the statutory fees from the administrative agency. As counsel points out, I reduced his requested fees in part because he had included time spent at the administrative level. I agree with counsel that he should be permitted to seek such fees at the agency level and that the administrative law judge could determine whether to release any remaining statutory fee to plaintiff. Accordingly, I will grant the motion.

ORDER

IT IS ORDERED that Dana Duncan's motion to modify the October 12, 2017 order, dkt. #27, is GRANTED. The Acting Commissioner shall hold the remaining portion of the statutory fee (\$10,881.25) pending the outcome of Duncan's request for fees submitted to the administrative law judge.

Entered this 11th day of December 2017.

BY THE COURT:

/s/

BARBARA B. CRABB
District Judge