

**UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF
CALIFORNIA**

David Payne v. Commissioner of Social Security

Payne · No. 2:20-cv-02150-CKD · Decided September 22, 2025

OPINION

David Payne v. Commissioner of Social Security

PER CURIAM.

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8 UNITED STATES DISTRICT COURT

9 FOR THE EASTERN DISTRICT OF CALIFORNIA

10 11 DAVID PAYNE, No. 2:20-cv-02150-CKD 12 Plaintiff, 13 v. ORDER

14 COMMISSIONER OF SOCIAL

SECURITY,

15 Defendant. 16

17 18 Based on 42 U.S.C. § 406(b), counsel for plaintiff in the above-entitled action seeks an 19
award of attorney fees in the amount of \$9,533.46 for 19.5 hours of professional time devoted to
20 the representation of plaintiff before this court. Counsel concedes that this amount should be 21
offset in the amount of \$3,960.00 for fees previously awarded under EAJA. 22 42 U.S.C. § 406(b)
(1)(A) provides, in relevant part: 23 Whenever a court renders a judgment favorable to a claimant
under this subchapter who was represented before the court by an 24 attorney, the court may
determine and allow as part of its judgment a reasonable fee for such representation, not in excess
of 25 percent 25 of the total of the past-due benefits to which the claimant is entitled by reason of
such judgment. 26 27 Rather than being paid by the government, fees under the Social Security
Act are awarded out of 28 the claimant’s disability benefits. *Russell v. Sullivan*, 930 F.2d 1443,
1446 (9th Cir. 1991), 1 | receded from on other grounds, *Sorenson v. Mink*, 239 F.3d 1140, 1149
(9th Cir. 2001). 2 || However, the 25 percent statutory maximum fee is not an automatic
entitlement; the court also 3 || must ensure that the requested fee is reasonable. *Gisbrecht v.*
Barnhart, 535 U.S. 789, 808-09 4 | (2002) (‘We hold that § 406(b) does not displace contingent-
fee agreements within the statutory 5 || ceiling; instead, § 406(b) instructs courts to review for
reasonableness fees yielded by those 6 || agreements.’). “Within the 25 percent boundary ... the
attorney for the successful claimant must 7 || show that the fee sought is reasonable for the
services rendered.” *Id.* at 807. 8 Counsel seeks fees for 19.5 hours. The Court has considered the
character of counsel’s 9 || representation and the good results achieved by counsel, which included
an award of 10 || approximately \$49,000.00 in benefits after a stipulated remand. Counsel
submitted a detailed 11 | billing statement that supports his request. There is no indication that a

reduction of the award is 12 || warranted due to any substandard performance by plaintiff's counsel, as counsel secured a 13 || successful result. There is also no evidence that plaintiff's counsel engaged in any dilatory 14 | conduct resulting in delay. 15 Based on the quality of counsel's representation and the results achieved in this case, the 16 || undersigned finds the number of hours expended to be reasonable. Accordingly, the undersigned 17 || will award the amount of attorney fees requested. 18 Accordingly, IT IS HEREBY ORDERED that: 19 1. The motion for attorney fees (ECF No. 31) is GRANTED; and 20 2. Plaintiffs counsel is awarded \$9,533.46 in attorney fees pursuant to 28 U.S.C. § 406, 21 to be offset in the amount of \$3,960.00 previously awarded under EAJA. □□□□□□□□□□ 22 counsel shall refund plaintiff the offset amount. 23 | Dated: September 22, 2025 / ae / a ly. ae
25 UNITED STATES MAGISTRATE JUDGE
26 27 28 || 2/payn2150.fee-406(a)