IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF GEORGIA

IN RE:)

)

PROCEDURES FOR APPLYING)

FOR ATTORNEY'S FEES   )   **STANDING ORDER NO. 08-03**

UNDER 42 U.S.C. §§ 406(b)   )

AND 1383(d) (2)   )

ORDER

Section 406(b) (and section 1383(d)(2) with regard to Title XVI claims) of Title 42 governs motions for attorney's fees in Social Security disability cases, and provides in relevant part that "the court may determine and allow as part of its judgment a reasonable fee for [an attorney's] 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." 42 U.S.C. § 406(b)(1)(A). However, at the time the judgment is entered, the specific amount of past-due benefits, if any, is unknown.

Federal Rule of Civil Procedure 54(d) (2) (B) applies to the filing of a request for attorney's fees pursuant to Sections 406(b) and 1383(d)(2), and it requires a motion for attorney's fees to be provided by statute or order of the court. Fed.R.Civ.P. 54(d)(2)(B). Because the amount of past-due benefits and attorney's fees is unknown at the time of judgment, the Court adopts the following procedures and filing schedule with regard to section 406(b) (and section 1383(d)(2)) motions for attorney's fees:

(I) If the plaintiff's attorney seeks attorney's fees under 42 U.S.C. §§ 406(b) or 1383 (d)(2)

he or she must file a motion for approval of such fees no later than thirty (30) days after the

date of the Social Security letter sent to the plaintiff's counsel of record at the conclusion of

the Agency's past-due benefit calculation stating the amount withheld for attorney's fees.

(II) The defendant's response, if any, shall be filed no later than thirty (30) days after the

plaintiff's attorney serves the motion on the defendant.

(III) Plaintiff shall file any reply within ten (10) days of service of defendant's response.

So ORDERED this ___8___ day of _____ 2008.

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JACK T. CAMP
Chief United States District Judge