

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

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NICHOLAS TOMASINI,

Plaintiff,

v.

CAROLYN W. COLVIN, Acting  
Commissioner, Social Security  
Administration,

Defendant.  
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ORDER

12-cv-294-bbc

This case is before the court on plaintiff's motion to allow him to pay his attorney fees to his counsel under 42 U.S.C. § 406. In earlier orders, I awarded his counsel fees in the amount of \$6,314.50, dkt. #24, and additional fees in the amount of \$1,098.75, dkt. #27. Counsel says in his brief that the attorney fees were never paid by defendant; it appears that he is talking only about the second, smaller award.

Now plaintiff has been awarded benefits and has moved the court to allow him to pay his counsel \$9,241.50 in addition to the \$6,314.50 he has already paid, for a total of \$15,556.00. This amount equals 25% of his past-due benefits withheld by the Social Security Administration. Although counsel never says explicitly that he and plaintiff entered into a contract specifying that plaintiff would pay counsel 25% of any past due benefits he received, I will assume that this was the case.

Plaintiff asks the court to grant relief under its order and judgment, dkt. ##27 & 28, in which plaintiff's counsel was awarded attorney fees of \$1,098.75. I will deny that request but will treat the order and judgment as moot, in light of plaintiff's counsel's representation that it was never honored.

#### ORDER

IT IS ORDERED that the order entered on May 16, 2013, dkt. #27, and the judgment entered on May 23, 2013, dkt. #28, are moot; FURTHER, IT IS ORDERED that plaintiff Nicholas Tomasini's motion to allow him to fulfill his contract with his counsel, David Traver, is GRANTED. Plaintiff is to pay his counsel the sum of \$9,241.50, which, with counsel's prior award of \$6,314.50, will complete plaintiff's contractual obligation to his counsel to pay him 25% of the past due benefits he has received from defendant.

Entered this 18th day of February, 2015.

BY THE COURT:

/s/

BARBARA B. CRABB

District Judge