

IN THE UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF OHIO
EASTERN DIVISION

STEPHANIE LYNN STEIGERWALD)	CASE NO.: 1:17-CV-1516
)	
Plaintiff,)	JUDGE JAMES S. GWIN
)	MAGISTRATE JUDGE DAVID RUIZ
v.)	
)	
ANDREW SAUL,)	<u>STATUS REPORT</u>
COMMISSIONER OF SOCIAL)	
SECURITY,)	
)	
Defendant. ¹)	

Pursuant to the Court's April 4, 2019 Order, ECF No. 104, and the Sixth Circuit's July 23, 2019 Order, 6th Cir. ECF No. 20-2, Defendant respectfully submits the following status report, informing the Court of SSA's progress in completing the windfall-offset recalculations for the Class.

Recalculations are in progress for all class members.² As of August 14, 2019, 25,928 cases are awaiting quality review after completion of Part 1.³ An additional 90,537 cases are

¹ Andrew Saul is now the Commissioner of Social Security and is automatically substituted as a party pursuant to Fed. R. Civ. P. 25(d). See also section 205(g) of the Social Security Act, 42 USC § 405(g) (action survives regardless of any change in the person occupying the office of Commissioner of Social Security).

² Four of the 129,695 class members were found to be duplicates, so the total class number is 129,691 individuals.

³ The windfall-offset recalculation is completed in three distinct phases, requiring coordination between agency field offices and processing centers. The steps required for Part 1 of the recalculation are set forth in Janet Walker's February 21, 2019 declaration in paragraphs 15 through 20; Part 2 is explained in paragraphs 21 through 29; and Part 3 of the recalculation process is expounded in paragraphs 30 through 41. See ECF No. 96-2. The quality review process is also described in paragraph 9 of Janet Walker's April 2, 2019 declaration. See ECF No. 102-1.

being processed in Part 1. There is 1 case awaiting quality review after completion of Part 2. An additional 3,087 cases are being processed in Part 2. Finally, 4,647 cases are being processed in Part 3.

As of August 14, 2019, SSA has completed⁴ 5,491 recalculations. Of those 5,491 recalculations, underpayments were due in 2,798 cases, totaling approximately \$4,100,000 prior to withholding for payment of class counsel's fee. The highest underpayment was \$16,024.40. No underpayments were due in 2,596 cases. Ninety-seven overpayments have been assessed.

Additionally, in the course of performing recalculations, SSA has determined that a small number of putative class members it identified in 2018 are not subject to the harm that is the basis of this suit because they are not owed a windfall-offset recalculation. Specifically, these individuals do not have a concurrent benefits period and/or do not have a corresponding attorneys' fee, meaning that no recalculation is due. SSA has thus far identified 340 individuals who fit this description. Individuals who are not owed a windfall-offset recalculation will nonetheless receive a notice stating that no recalculation is due.

⁴ Because fees for class counsel have not yet been determined, "completed" in this context refers to the completion of the recalculation and the issuance of any underpayment, if due, while withholding 20% of the underpayment for payment of potential attorney fees. However, in cases in which the class member is deceased, incarcerated, or otherwise not able to receive the underpayment due, the agency has calculated the underpayment and withheld 20% for potential attorney fees, but may not have released a payment pending identification of an individual eligible to receive the payment.

Respectfully submitted,

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s/ Ruchi V. Asher

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CERTIFICATE OF SERVICE

I hereby certify that on this 15th day of August, 2019, a copy of the foregoing Status Report was filed electronically. Notice of this filing will be sent to all parties by operation of the Court's electronic filing system. Parties may access this filing through the Court's system.

/s/Ruchi V. Asher

Ruchi V. Asher

Assistant U.S. Attorney