

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,	)	<b><u>STATUS REPORT</u></b>
COMMISSIONER OF SOCIAL	)	
SECURITY,	)	
	)	
Defendant.	)	

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.<sup>1</sup> As of December 2, 2020, 0 cases are awaiting quality review after completion of Part 1.<sup>2</sup> An additional 27 cases are being processed in Part 1. There are 0 cases awaiting quality review after completion of Part 2. An

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<sup>1</sup> Four of the 129,695 class members were found to be duplicates, so the total class number is 129,691 individuals.

<sup>2</sup> 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.

additional 2,356 cases are being processed in Part 2. Finally, 2,544 cases are being processed in Part 3.

As mentioned in the prior status report, nearly all the remaining recalculations arise from SSA's voluntary decision on November 18, 2020 to initiate a re-review of 8,723 cases where the windfall-offset recalculation had resulted in an overpayment. The purpose of that re-review is to determine whether particular overpayments were assessed in accordance with SSA's regulations regarding administrative finality. In the event that SSA modifies an overpayment, the class member will receive a new notice and will be refunded any excess amount that the agency had recouped.<sup>3</sup> The re-review, however, is not expected to result in more than a small number of class members receiving additional underpayments. These cases undergoing the review appear as being processed in Parts 2 and 3.

As of December 2, 2020, SSA has completed<sup>4</sup> 124,764 recalculations. Of those 124,764 recalculations, underpayments were due in 70,850 cases, totaling approximately \$107,010,000.00 prior to withholding for payment of class counsel's fee. The highest underpayment was \$70,895.00. No underpayments were due in 51,970 cases.

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

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<sup>3</sup> All class members who were assessed overpayments received a notice of their appeal rights and the right to request a waiver of the overpayment.

<sup>4</sup> "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 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 attorney fees, but may not have released a payment pending identification of an individual eligible to receive the payment. The number of cases reported as "completed" excludes cases in which SSA completed the recalculation, issued a notice, and is now reviewing the recalculations in Parts 2 and 3.

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 an estimated 1,790 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.

Respectfully submitted,

JUSTIN E. HERDMAN

United States Attorney  
Northern District of Ohio

*s/ Ruchi V. Asher*

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LISA HAMMOND JOHNSON  
(#0061681)

RUCHI V. ASHER (#009017)  
Assistant United States Attorneys  
400 United States Court House 801  
West Superior Avenue Cleveland,  
Ohio 44113-1852  
(216) 622-3679 –  
Hammond Johnson  
(216) 622-3718 – Asher  
(216) 522-4982 – Facsimile  
Lisa.hammond.johnson@usdoj.gov  
Ruchi.Asher@usdoj.gov

JEFFREY BOSSERT CLARK  
Acting Assistant Attorney General

BRAD P. ROSENBERG  
Assistant Director, Federal Programs Branch

JUSTIN M. SANDBERG (Ill. Bar # 6278377)  
Senior Trial Counsel  
United States Department of Justice  
Civil Division, Federal Programs Branch  
20 Massachusetts Ave. NW  
Washington, DC 20530  
(202) 514-9239 (phone)  
(202) 616-8470 (fax)  
Justin.Sandberg@usdoj.gov