

UNITED STATES DISTRICT COURT FOR THE WESTERN DISTRICT OF
WISCONSIN

Kimberly Janick v. Frank Bisignano, Commissioner of Social
Security

Janick · No. 19-cv-601-wmc · Decided May 8, 2026

SUMMARY

The Western District of Wisconsin grants Kimberly Janick’s attorney’s petition for fees under 42 U.S.C. § 406(b) following a sentence-four remand in a Social Security case. The court approves gross representative fees of \$13,680.25, allows counsel to retain the previously awarded \$5,800.00 in EAJA fees, and directs payment of the \$7,880.25 net amount from withheld past-due benefits.

CASE DETAILS

COURT	United States District Court for the Western District of Wisconsin
WRITING FOR THE COURT	William M. Conley
JURISDICTION	United States District Court for the Western District of Wisconsin
DECIDED	May 8, 2026
DOCKET	19-cv-601-wmc
DISPOSITION	other
PROCEDURAL POSTURE	Following a sentence-four remand in a Social Security disability case, plaintiff's attorney petitioned for an award of fees under 42 U.S.C. § 406(b)(1).
STANDARD OF REVIEW	Reasonableness review of an attorney-fee request under 42 U.S.C. § 406(b)(1)(A), subject to the statutory 25-percent cap and the requirement that the fee be reasonable.
PRECEDENTIAL VALUE	unpublished and nonprecedential
PARTIES	Kimberly Janick v. Frank Bisignano, Commissioner of Social Security

TOPICS

- attorney fees
- judicial review of agency action
- administrative law
- remedies

PRACTICE AREAS

QUESTIONS PRESENTED

1. Whether counsel's requested attorney fee under 42 U.S.C. § 406(b)(1)(A) was reasonable and could be approved in an amount not exceeding 25 percent of the past-due benefits.
2. Whether counsel could retain the prior EAJA award while receiving the § 406(b) award, with the EAJA amount deducted from the gross § 406(b) award.

HOLDINGS

1. The court approved representative fees under 42 U.S.C. § 406(b)(1) in the gross amount of \$13,680.25, finding the requested fee reasonable and within the statutory 25-percent limit.
2. Counsel may retain the previously awarded \$5,800.00 EAJA fee only as partial satisfaction of the § 406(b) award; the EAJA amount must be offset against the gross § 406(b) fee, leaving a net award of \$7,880.25.

KEY QUOTATIONS

“a reasonable fee . . . not in excess of 25 percent of the . . . past-due benefits”

“out of, and not in addition to, the amount of [the] past-due benefits.”

“[A]n EAJA award offsets an award under Section 406(b).”

FACTUAL BACKGROUND

The court had previously reversed and remanded Janick's Social Security case, and the remand resulted in past-due and auxiliary benefits totaling \$13,680.25 for purposes of the requested representative fee. Counsel sought approval of a § 406(b) fee and asked to retain a prior \$5,800.00 EAJA award, resulting in a net payment of \$7,880.25 from past-due benefits. Neither Janick nor the Commissioner objected to the requested fee arrangement.

PROCEDURAL HISTORY

On December 16, 2019, the court reversed and remanded the case to the Commissioner for further proceedings under sentence four of 42 U.S.C. § 405(g). After past-due benefits were awarded, counsel sought § 406(b) fees, and the court approved a gross award of \$13,680.25, allowing counsel to retain a previously awarded \$5,800.00 EAJA fee and directing disbursement of the \$7,880.25 net balance from withheld past-due benefits.

DISPOSITION

other

CASES CITED

- *Gisbrecht v. Barnhart*, 535 U.S. 789, 796 (2002)

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