

UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF
OKLAHOMA

Matthew Lawrence Horn v. Commissioner of the Social Security
Administration

Horn · No. CIV-23-091-JAR · Decided May 12, 2026

SUMMARY

The United States District Court for the Eastern District of Oklahoma granted counsel’s motion for attorney fees under 42 U.S.C. § 406(b) in a Social Security disability appeal. The court awarded \$10,822.25, directed payment from past-due benefits withheld for that purpose, and required counsel to refund the lesser of the EAJA fees or the § 406(b) award to the plaintiff’s estate.

CASE DETAILS

COURT	United States District Court for the Eastern District of Oklahoma
WRITING FOR THE COURT	Jason A. Robertson
JURISDICTION	United States District Court for the Eastern District of Oklahoma
DECIDED	May 12, 2026
DOCKET	CIV-23-091-JAR
DISPOSITION	other
PROCEDURAL POSTURE	Plaintiff's attorney moved under 42 U.S.C. § 406(b) for an award of fees following the court's prior remand of Plaintiff's Social Security benefits appeal and Plaintiff's subsequent award of benefits.
STANDARD OF REVIEW	The court reviewed the contingency-fee agreement, contemporaneous time and expense records, reasonableness and necessity of the work, the result obtained, and the timeliness of the request under the extraordinary-relief standard of Federal Rule of Civil Procedure 60(b) (6).
PRECEDENTIAL VALUE	unpublished
PARTIES	Matthew Lawrence Horn v. Commissioner of the Social Security Administration

TOPICS

attorney fees

administrative law

remedies

civil procedure

PRACTICE AREAS

Social Security

administrative law

attorney fees

civil procedure

QUESTIONS PRESENTED

1. Whether counsel was entitled to an award of \$10,822.25 under 42 U.S.C. § 406(b) based on the contingency-fee agreement and the benefits obtained for Plaintiff.
2. Whether the requested fee was reasonable and within the statutory 25% limitation.
3. Whether the fee motion was timely under Federal Rule of Civil Procedure 60(b)(6).
4. Whether counsel was required to refund the smaller of the EAJA award and the § 406(b) award to Plaintiff's estate.

HOLDINGS

1. Counsel was entitled to an award of \$10,822.25 under § 406(b) because Plaintiff obtained past-due benefits, the fee did not exceed the 25% statutory cap or the contingency-fee agreement, and the requested fee was reasonable in light of the work performed and result obtained.
2. The motion was timely because it was filed within a reasonable time of the Commissioner's decision awarding benefits, and the delay did not warrant denying the fee request.
3. Counsel must refund to Plaintiff's estate the smaller of any EAJA fees already awarded and the § 406(b) fees awarded in the decision.

FACTUAL BACKGROUND

Counsel represented Plaintiff in an appeal from an adverse Social Security benefits decision and obtained a remand after filing an opening brief. On remand, Plaintiff was found disabled and received \$57,249.00 in past-due benefits, from which 25%, or \$14,312.25, was withheld for attorney fees. Counsel requested \$10,822.25 under § 406(b), had previously received or obtained an EAJA award of \$5,710.00, and filed the § 406(b) motion on October 9, 2025, after the September 3, 2025 Notice of Award.

PROCEDURAL HISTORY

Counsel appealed an adverse administrative decision denying Plaintiff benefits. The Commissioner filed an unopposed motion to remand, which the court granted. On remand, Plaintiff was found disabled and awarded past-due benefits. Counsel then sought \$10,822.25 under § 406(b), representing fees under a 25% contingency-fee agreement, while acknowledging a prior EAJA award of \$5,710.00. The court granted the motion and directed payment from withheld past-due benefits, subject to a refund of the smaller EAJA or § 406(b) amount to Plaintiff's estate.

DISPOSITION

other

CASES CITED

- *Gisbrecht v. Barnhart*, 535 U.S. 789, 807 (2002)
- *Wrenn v. Astrue*, 525 F.3d 931, 937-938 (10th Cir. 2008)
- *McGraw v. Barnhart*, 450 F.3d 493, 505 (10th Cir. 2006)
- *Weakley v. Bowen*, 803 F.2d 575, 580 (10th Cir. 1986)

OPINION

Horn

PER CURIAM.

UNITED STATES DISTRICT COURT

EASTERN DISTRICT OF OKLAHOMA

MATTHEW LAWRENCE HORN,)

) Plaintiff,)) v.) Case No. CIV-23-091-JAR)

COMMISSIONER OF THE)

SOCIAL SECURITY)

ADMINISTRATION,)

) Defendant.)

OPINION AND ORDER

This matter comes before this Court on Motion for Attorney Fees Under 42 U.S.C. § 406(b) filed by Gayle L. Troutman with the firm Troutman and Troutman, the attorney of record for Plaintiff (Docket Entry No. 28). Counsel requests that she be awarded fees for legal work pursuant to 42 U.S.C. § 406(b) in the amount of \$10,822.25. Counsel was employed by Plaintiff to appeal the adverse decision rendered by Administrative Law Judge presiding over the request for benefits. To that end, Counsel entered into a contract for compensation with Plaintiff, providing for the payment of a fee equal to 25% of any past due benefits ultimately awarded to Plaintiff. Such contracts are recognized as valid under the prevailing case authority. *Gisbrecht v. Barnhart*, 535 U.S. 789, 807 (2002). Counsel filed an opening brief to set out Plaintiff's position in this appeal to which Defendant responded with an unopposed motion to remand, which was granted by this Court. Consequently, Plaintiff was successful in this appeal. As a result, Plaintiff was awarded attorney's fees in accordance with the Equal Access to Justice Act ("EAJA") for the efforts before this Court in the amount of \$5,710.00. On remand, Plaintiff was found to be disabled and while the amount of past due benefits awarded was not expressly set out in the Notice of Award, Defendant did state that attorney fees of 25% were withheld from the past due benefits amounting to \$14,312.25, resulting in past due benefits in the amount of \$57,249.00. The amount awarded to counsel for successfully prosecuting an appeal of a denial of Social Security benefits and obtaining

benefits for a claimant may not exceed 25% of past due benefits. 42 U.S.C. § 406(b)(1)(A). As in this case, Defendant is authorized to withhold up to 25% of the past due benefits awarded to a claimant for payment directly to the claimant's attorney. 42 U.S.C. § 406(a)(4). The Tenth Circuit Court of Appeals determined that the 25% amount is separate and apart from the amount awarded at the agency level under 42 U.S.C. § 406(a). *Wrenn v. Astrue*, 525 F.3d 931, 937-938 (10th Cir. 2008). The only condition upon the full award of 25% is a requirement that the court review contingency fee arrangements "to assure that they yield reasonable results in particular cases." *Id.* at 938 (citations omitted). Counsel's requested fees do not exceed either the amount contracted for in the contingency fee agreement or the limitations of §406(b). Defendant generally does not take a position on awarding the amount requested, stating that the Social Security Administration has no financial stake in the result. Despite the fact the source for Counsel's compensation is a contingency fee contract, this Court has reviewed the contemporaneous time and expense records based upon the admonishment of the Tenth Circuit to do so and finds the time expended to be reasonable and necessary in consideration of the result obtained. This Court has evaluated Counsel's request for its timeliness. In seeking an award under § 406(b), an attorney is required to employ the provisions of Fed. R. Civ. P. 60(b)(6). *McGraw v. Barnhart*, 450 F.3d 493, 505 (10th Cir. 2006). While relief under this rule is considered extraordinary and reserved for exceptional circumstances, substantial justice is served by permitting its use in the circumstance faced by counsel in seeking these fees. *Id.* To that end, any fee request pursued under §406(b) should be filed "within a reasonable time of the Commissioner's decision awarding benefits." *Id.* (citation omitted). In this case, Notice of Award was issued by Defendant on September 3, 2025. Counsel filed her request for compensation on October 9, 2025. This Court cannot find the delay which occurred in this case warrants the draconian result of denying an award of fees. Therefore, the request is considered timely. IT IS THEREFORE ORDERED that Motion for Attorney Fees Under 42 U.S.C. § 406(b) filed by Gayle L. Troutman with the firm Troutman and Troutman, the attorney of record for Plaintiff (Docket Entry No. 28) is hereby GRANTED. Plaintiff's counsel is awarded fees in the amount of \$10,822.25. Defendant is directed to pay this fee directly to counsel from the amount of past due benefits withheld for that purpose. In addition, Plaintiff's counsel shall refund to Plaintiff's estate the smaller amount between any EAJA fees already awarded and the § 406(b) fees awarded in this decision to Plaintiff. *Weakley v. Bowen*, 803 F.2d 575, 580 (10th Cir. 1986). IT IS SO ORDERED this 12th day of May, 2026. _____

JASON A. ROBERTSON

UNITED STATES MAGISTRATE JUDGE