

UNITED STATES DISTRICT COURT FOR THE NORTHERN DISTRICT OF
NEW YORK

Ashley N. v. Commissioner of Social Security

Ashley N. · No. 6:23-CV-982 (DJS) · Decided February 9, 2026

SUMMARY

The United States District Court for the Northern District of New York granted Plaintiff’s counsel’s motion for attorney’s fees under 42 U.S.C. § 406(b) after the Social Security Administration awarded benefits following a remand. The court awarded \$25,832.75, payable from withheld past-due benefits, and directed counsel to remit to Plaintiff any fees previously received under the Equal Access to Justice Act.

CASE DETAILS

COURT	United States District Court for the Northern District of New York
WRITING FOR THE COURT	Daniel J. Stewart
JURISDICTION	United States District Court for the Northern District of New York
DECIDED	February 9, 2026
DOCKET	6:23-CV-982 (DJS)
DISPOSITION	other
PROCEDURAL POSTURE	Plaintiff moved for an award of attorney's fees under 42 U.S.C. § 406(b) after the court remanded the Social Security case by stipulation and the Administrative Law Judge subsequently issued a favorable benefits decision.
STANDARD OF REVIEW	The court independently reviews a contingent-fee arrangement under 42 U.S.C. § 406(b) to determine whether the requested fee is reasonable, while giving due deference to the parties' agreement.
PRECEDENTIAL VALUE	unpublished district court decision

TOPICS

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

PRACTICE AREAS

- Social Security
- attorney's fees
- administrative law

QUESTIONS PRESENTED

1. Whether counsel's requested attorney's fee award under 42 U.S.C. § 406(b) was reasonable.
2. Whether the requested award complied with the statutory 25 percent cap and avoided an unreasonable windfall.

HOLDINGS

1. A court may approve a contingent-fee request under § 406(b) when the fee does not exceed 25 percent of the claimant's past-due benefits and is reasonable in light of the circumstances, including delay, fraud or overreaching, and whether the award would constitute a windfall.

KEY QUOTATIONS

“This section “calls for court review of such arrangements as an independent check, to assure that they yield reasonable results in particular cases.””

“The court “must give due deference to the intent of the parties, but it ought not blindly approve every fee request made pursuant to a contingent agreement.””

““A] requested fee based on a contingent fee arrangement should be enforced unless the court finds it to be unreasonable.””

FACTUAL BACKGROUND

Plaintiff sought judicial review of the denial of disability benefits, and the case was remanded to the Social Security Administration by stipulation. On remand, the Administrative Law Judge issued a favorable decision awarding Plaintiff benefits. Counsel requested \$25,832.75 for 24.3 hours of federal-court work under a contingency agreement, and agreed to remit the previously awarded EAJA fees to Plaintiff.

PROCEDURAL HISTORY

Plaintiff filed an action seeking review of the Commissioner's denial of disability benefits. The court remanded the matter to the Social Security Administration pursuant to the parties' stipulation, and an EAJA fee award was previously entered. On remand, the Administrative Law Judge awarded Plaintiff benefits, after which Plaintiff's counsel moved for \$25,832.75 in fees under § 406(b). The court granted the motion and directed counsel to remit to Plaintiff the amount previously received under the EAJA.

DISPOSITION

other

CASES CITED

- *Gisbrecht v. Barnhart*, 535 U.S. 789, 807-08 (2002)
- *Wells v. Sullivan*, 907 F.2d 367, 370, 372 (2d Cir. 1990)
- *Fields v. Kijakazi*, 24 F.4th 845, 854-56 (2d Cir. 2022)

- Porter v. Comm'r of Soc. Sec., 2009 WL 2045688, at *3 (N.D.N.Y. July 10, 2009)
- Tammy K. v. Comm'r of Soc. Sec., 2019 WL 1567523, at *3 (N.D.N.Y. Apr. 11, 2019)
- Eric K. v. Berryhill, 2019 WL 1025791, at *3 (N.D.N.Y. Mar. 4, 2019)

OPINION

UNITED STATES DISTRICT COURT NORTHERN DISTRICT OF NEW YORK ASHLEY N., Plaintiff, V. 6:23-CV-982 (DJS) COMMISSIONER OF SOCIAL SECURITY, Defendant. DANIEL J. STEWART United States Magistrate Judge DECISION AND ORDER I. BACKGROUND Plaintiff filed a Complaint in this matter on August 11, 2023, seeking review of the Commissioner's determination denying Plaintiffs application for disability benefits.

Dkt. No. 1. On June 11, 2024, the Court remanded the matter to the Social Security Administration for further proceedings by virtue of a stipulation between the parties. Dkt. Nos. 19-20. An award of attorney's fees was previously entered pursuant to the Equal Access to Justice Act ("EAJA"). Dkt. No. 22. Upon review of the matter on remand, the Administrative Law Judge issued a favorable decision awarding Plaintiff benefits.

Dkt. No. 23, 7 6. Plaintiff's counsel has now filed a Motion for Attorney's Fees pursuant to 42 U.S.C. § 406(b). Dkt. No. 23. Specifically, Plaintiffs counsel seeks attorney's fees in the amount of \$25,832.75, of which he would remit to Plaintiff the sum previously awarded under the EAJA. Dkt. No. 23 at J 8.

For the reasons that follow, the Motion is granted. II. DISCUSSION The Social Security Act provides: Whenever a court renders a judgment favorable to a claimant under this subchapter who was represented before the court by an attorney, the court may determine and allow as part of its judgment a reasonable fee for such representation, not in excess of 25 percent of the total of the past-due benefits to which the claimant is entitled by reason of such judgment.

42 U.S.C. § 406(b)(1)(A). This section "calls for court review of such arrangements as an independent check, to assure that they yield reasonable results in particular cases." *Gisbrecht v. Barnhart*, 535 U.S. 789, 807 (2002).

The court "must give due deference to the intent of the parties, but it ought not blindly approve every fee request made pursuant to a contingent agreement." *Wells v. Sullivan*, 907 F.2d 367, 372 (2d Cir. 1990). "[T]he requested fee based on a contingent fee arrangement should be enforced unless the court finds it to be unreasonable." *Id.* at 370.

In determining whether a fee is reasonable, a court should consider whether the attorney is responsible for a delay in the proceedings, as well as "whether there has been fraud or overreaching in making the agreement, and whether the requested amount is so large as to be a windfall to the attorney." *Id.* at 372; see also *Gisbrecht v. Barnhart*, 535 U.S. at 808.

In determining whether an award would constitute a windfall, the Second Circuit has identified a number of relevant factors including the ability and expertise of counsel, the nature and length of counsel's relationship with the client, the satisfaction of the claimant, and the uncertainty of the outcome of the case. *Fields v. Kijakazi*, 24 F.4th 845, 854-56 (2d Cir.

2022); see also *Porter v. Comm'r of Soc. Sec.*, 2009 WL 2045688, at *3 (N.D.N.Y. July 10, 2009) (identifying three related considerations). If the court finds the fee is unreasonable, the court "may reduce the fee provided it states the reasons for and the amounts of the deductions." □□□ at *2.

Here, the contingency fee agreement provides in pertinent part that any fee award under section 406(b) would not exceed 25% of all past due benefits. Dkt. No. 23-2. The amount requested does not exceed the 25% cap, and there is no evidence of fraud or overreaching. Counsel seeks \$25,832.75 in attorney's fees. Dkt. No. 23. Counsel notes a total of 24.3 hours expended on this matter at the federal court level.

Dkt. No. 23-3. This results in a de facto hourly rate of slightly over \$1,063. Jd. Though high, this amount is within the range awarded as attorney's fees in this type of case. See *Tammy K. v. Comm'r of Soc. Sec.*, 2019 WL 1567523, at *3 (N.D.N.Y. Apr. 11, 2019)(citing cases); *Eric K. v. Berryhill*, 2019 WL 1025791, at *3 (N.D.N.Y. Mar. 4, 2019) (finding de facto hourly rate of \$1,500 "is not out of line with the corresponding hourly rate of attorney's fees approved by district courts within the Second Circuit.").

Counsel prepared and filed a persuasive Motion for Judgment on the Pleadings which ultimately secured a remand. See Dkt. No. 12. In addition, Plaintiff has been awarded significant benefits as a result of the litigation. See Dkt. No. 23-2.

Finally, in reviewing counsel's time log, it generally appears to reflect properly recorded and appropriate attorney work. Dkt. No. 23-3. Defendant does not contest the timeliness of the Motion or oppose the application. Dkt. No. 24. IH. CONCLUSION WHEREFORE, it is hereby ORDERED, that Plaintiffs Motion for Attorney's Fees (Dkt. No. 23) is GRANTED; and it is further ORDERED, that Attorney Antonowicz is awarded the sum of \$25,832.75 as fees pursuant to 42 U.S.C. § 406(b), to be paid from the amount withheld by the Commissioner of Social Security from the past due benefits awarded to Plaintiff; and it is further ORDERED, that Attorney Antonowicz is directed to remit to Plaintiff any sum that was previously awarded and received as fees pursuant to the EAJA; and it is further ORDERED, that the Clerk of the Court serve a copy of this Decision and Order upon the parties to this action in accordance with the Local Rules.

Dated: February 9, 2026 Albany, New York Jf Da el J, Ste xart) " U.S"Magistrate Judge