

UNITED STATES DISTRICT COURT FOR THE DISTRICT OF MARYLAND

Bock v. Commissioner of Social Security

Bock · No. 1:21-cv-02821-DRM · Decided March 4, 2026

SUMMARY

The United States District Court for the District of Maryland partially granted Plaintiff's amended motion for attorney's fees under 42 U.S.C. § 406(b) in Bock v. Commissioner of Social Security. The court awarded \$26,950.00, calculated at \$1,400 per hour for 19.25 hours of federal-court work, rather than the requested \$30,918.50. Counsel was directed to reimburse the plaintiff for fees previously received under the Equal Access to Justice Act.

CASE DETAILS

COURT	United States District Court for the District of Maryland
WRITING FOR THE COURT	Douglas R. Miller
JURISDICTION	United States District Court for the District of Maryland
DECIDED	March 4, 2026
DOCKET	1:21-cv-02821-DRM
DISPOSITION	other
PROCEDURAL POSTURE	Plaintiff moved under 42 U.S.C. § 406(b) for attorney's fees incurred in successful representation before the federal court in a Social Security case.
STANDARD OF REVIEW	The court independently reviewed the contingent-fee request to determine whether it produced a reasonable fee and whether it would constitute a windfall to counsel.
PRECEDENTIAL VALUE	unpublished district court opinion

TOPICS

attorney fees remedies administrative law civil procedure

PRACTICE AREAS

Social Security attorney's fees administrative law civil procedure

QUESTIONS PRESENTED

1. Whether the requested attorney's fee under 42 U.S.C. § 406(b) was reasonable and did not constitute a windfall to counsel.
2. Whether counsel should be required to reimburse plaintiff for fees previously received under the Equal Access to Justice Act.

HOLDINGS

1. A contingent-fee agreement in a Social Security case is subject to independent judicial review, and the court may reduce the requested fee if the resulting compensation is unreasonable or would constitute a windfall. An effective hourly rate of \$1,400 for 19.25 hours was reasonable in this case, but the requested \$30,918.50 fee was not approved in full.
2. Counsel receiving a § 406(b) fee must reimburse the plaintiff for fees previously received under the EAJA.

KEY QUOTATIONS

“Although contingent fee agreements are the “primary means by which fees are set” in Social Security cases, a court must nevertheless perform an “independent check, to assure that they yield reasonable results in particular cases.”” (Page 1)

“Importantly, the Supreme Court acknowledged that a contingent fee agreement would not result in a reasonable fee if the fee constituted a “windfall” to the attorney.” (Page 1)

“Instead, this Court concludes that an hourly rate of \$1,400.00, four times Mr. Demuth’s typical hourly billing rate, is a reasonable rate in this case.” (Page 2)

FACTUAL BACKGROUND

Plaintiff's counsel, Lawrence P. Demuth, represented plaintiff before the federal court and documented 19.25 hours of work. Plaintiff received \$123,674.00 in past-due benefits, and the contingent-fee agreement entitled counsel to 25 percent of those benefits. Counsel's requested \$30,918.50 fee would have produced an effective hourly rate of \$1,606.16, while counsel's typical hourly billing rate was \$350.

PROCEDURAL HISTORY

The court had previously awarded plaintiff's attorney \$4,495.59 under the Equal Access to Justice Act for 19.25 hours of federal-court work. After plaintiff received an award of \$123,674.00 in past-due benefits, counsel sought \$30,918.50 under a contingent-fee agreement providing for 25 percent of past-due benefits. The court granted the amended fee motion in part and awarded \$26,950.00, directing counsel to reimburse plaintiff for the EAJA fees previously received.

DISPOSITION

other

CASES CITED

- *Gisbrecht v. Barnhart*, 535 U.S. 789, 796 (2002)
- *Stephens ex rel. R.E. v. Astrue*, 565 F.3d 131, 135 (4th Cir. 2009)
- *Gisbrecht v. Barnhart*, 535 U.S. 789, 807 (2002)
- *Gisbrecht v. Barnhart*, 535 U.S. 789, 808 (2002)
- *Rodriguez v. Bowen*, 865 F.2d 739, 746-47 (6th Cir. 1989)
- *Melvin v. Colvin*, No. 5:10-CV-160-FL, 2013 WL 3340490 (E.D.N.C. July 2, 2013)
- *Claypool v. Barnhart*, 294 F. Supp. 2d 829, 833 (S.D.W. Va. 2003)
- *Lehman v. Comm’r, Soc. Sec. Admin.*, Civil No. SAG-10-2160 (D. Md. July 7, 2016)
- *Holly C. v. Comm’r, Soc. Sec. Admin*, 1:21-cv-01043-JMC (D. Md. Sept. 13, 2023)
- *Sharon S. v. Comm’r, Soc. Sec. Admin*, 1:21-cv-00001-JMC, 2022 WL 16951447 (D. Md. Nov. 15, 2022)
- *Wayne C. v. Comm’r, Soc. Sec. Admin*, 1:18-cv-02512-MDLB, 2021 WL 5181824 (D. Md. Nov. 8, 2021)

OPINION

Bock

PER CURIAM.

UNITED STATES DISTRICT COURT

DISTRICT OF MARYLAND

es Disp 101 West Lombard Street Chambers of yy Baltimore, Maryland 21201 Douglas R. Miller
 Ls MDD_DRMChambers@mdd_uscourts.gov United States Magistrate Judge J XS (410) 962-
 7770 March 4, 2026

LETTER OPINION

Re: *Bock v. Commissioner of Social Security* Civil No. 1:21-cv-02821-DRM Dear Counsel:
 Plaintiff has filed an Amended Motion for Attorney Fees under the Social Security Act (“Act”), 42 U.S.C. § 406(b), for the amount of \$30,918.50. ECF No. 29. The government responded to Plaintiff's prior Motion for Attorney's Fees, ECF No. 23, which requested the same award amount, neither supporting nor opposing the motion. ECF No. 28. No hearing is necessary. See *Loc. R. 105.6* (D. Md. Dec. 1, 2025). For the reasons set forth below, Plaintiff's motion for attorney's fees is GRANTED IN PART. This Court has awarded Plaintiff's attorney, Lawrence P. Demuth, Esq., \$4,495.59 for a total of 19.25 hours worked on Plaintiff's case in federal court, pursuant to the Equal Access to Justice Act (“EAJA”), 28 U.S.C. § 2412. ECF No. 21. Plaintiff received an Award Notice, in which he was awarded past due benefits of \$123,674.00. ECF No. 29-3. Subsequently, Mr. Demuth filed a Motion in this Court, seeking \$30,918.50 in attorney's fees. ECF No. 29. Mr. Demuth has agreed to reimburse Plaintiff in the amount of fees previously received. ECF No. 29; see *Gisbrecht v. Barnhart*, 535 U.S. 789, 796 (2002); *Stephens ex rel. R.E. v. Astrue*, 565 F.3d 131, 135 (4th Cir. 2009). The Act authorizes a reasonable fee for successful representation before this Court, not to exceed twenty-five percent of a claimant's total past-due benefits. 42 U.S.C. § 406(b). Although contingent fee agreements are the “primary means by which fees are set” in Social Security cases, a court must nevertheless perform an “independent

check, to assure that they yield reasonable results in particular cases.” *Gisbrecht*, 535 U.S. at 807. In determining whether a request for attorney’s fees under section 406(b) is reasonable, the Supreme Court has explained that a reviewing court may properly consider the “character of the representation and the results the representative achieved.” *Id.* at 808. Importantly, the Supreme Court acknowledged that a contingent fee agreement would not result in a reasonable fee if the fee constituted a “windfall” to the attorney. *Id.* (quoting *Rodriguez v. Bowen*, 865 F.2d 739, 746-47 (6th Cir. 1989)). Courts may require the attorney to provide a record of hours spent working on the case and the attorney’s typical hourly billing charge. *Id.* Page 2 Here, Mr. Demuth and Plaintiff entered into a contingent fee agreement, by which Plaintiff agreed to pay Mr. Demuth twenty-five percent of all retroactive benefits to which he might become entitled. ECF No. 18-5. In his previous motion for attorney’s fees pursuant to the EAJA, Mr. Demuth submitted itemized reports documenting 19.25 chargeable hours he expended before this Court in Plaintiff’s case. See ECF No. 18-7. If Mr. Demuth receives the full amount of fees he requests, his fee for representation before this Court will effectively total \$1,606.16 per hour. Mr. Demuth must therefore show that an effective rate of \$1,606.16 per hour is reasonable for the services he rendered. See *Gisbrecht*, 535 U.S. at 807. Notably, Mr. Demuth’s typical hourly billing rate is \$350, ECF No. 18-6 ¶ 6. Courts in the Fourth Circuit have approved contingency fee agreements that produce much higher hourly rates in successful Social Security appeals. See, e.g., *Melvin v. Colvin*, No. 5:10-CV-160-FL, 2013 WL 3340490 (E.D.N.C. July 2, 2013) (approving contingency fee agreement with hourly rate of \$1,043.92); *Claypool v. Barnhart*, 294 F. Supp. 2d 829, 833 (S.D.W. Va. 2003) (approving contingency fee agreement with hourly rate of \$1,433.12); *Lehman v. Comm’r, Soc. Sec. Admin.*, Civil No. SAG-10-2160 (D. Md. July 7, 2016) (unpublished) (approving contingency fee agreement with hourly rate of \$1,028.14). This Court has routinely approved contingency fee agreements for Mr. Demuth in successful Social Security appeals that produce much higher hourly rates than his typical hourly rate. See *Holly C. v. Comm’r, Soc. Sec. Admin.*, 1:21-cv-01043-JMC, (D. Md. Sept. 13, 2023); *Sharon S. v. Comm’r, Soc. Sec. Admin.*, 1:21-cv-00001-JMC, 2022 WL 16951447 (D. Md. Nov. 15, 2022); *Wayne C. v. Comm’r, Soc. Sec. Admin.*, 1:18-cv-02512-MDLB, 2021 WL 5181824 (D. Md. Nov. 8, 2021). However, the requested rate is higher than those awards. Instead, this Court concludes that an hourly rate of \$1,400.00, four times Mr. Demuth’s typical hourly billing rate, is a reasonable rate in this case. A rate of \$1,400.00 for 19.25 hours of work would result in a fee of \$26,950.00, which is reasonable and should be approved. For the reasons set forth herein, this Court GRANTS IN PART Plaintiff’s Amended Motion seeking attorney’s fees, ECF No. 29. This Court will award Mr. Demuth attorney’s fees totaling \$26,950.00. Mr. Demuth is directed to reimburse to Plaintiff the fees he received pursuant to the EAJA. Notwithstanding the informal nature of this letter, it should be docketed as an opinion. A separate implementing order follows. Sincerely, /s/ Douglas R. Miller United States Magistrate Judge District of Maryland

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