

UNITED STATES DISTRICT COURT FOR THE DISTRICT OF ARIZONA

SB v. Commissioner of Social Security Administration

No. CV-20-01842-PHX-JAT (D. Ariz. Apr. 3, 2026) · No. No. CV-20-01842-PHX-JAT · Decided April 3, 2026

SUMMARY

The United States District Court for the District of Arizona granted Plaintiff's counsel's motion for attorney fees under 42 U.S.C. § 406(b) following a favorable Social Security disability determination on remand. The court approved \$78,668.50, representing 25% of the past-due benefits, and ordered counsel to refund the previously awarded \$21,568.70 in Equal Access to Justice Act fees to the plaintiff.

CASE DETAILS

COURT	United States District Court for the District of Arizona
WRITING FOR THE COURT	James A. Teilborg
JURISDICTION	United States District Court for the District of Arizona
DECIDED	April 3, 2026
DOCKET	No. CV-20-01842-PHX-JAT
DISPOSITION	other
PROCEDURAL POSTURE	Plaintiff's counsel moved for attorney fees under 42 U.S.C. § 406(b)(1) (A) after the Social Security Administration issued a favorable decision on remand and awarded past-due benefits. The Commissioner did not respond.
STANDARD OF REVIEW	The Court independently reviewed the requested fee for reasonableness under the factors identified in <i>Gisbrecht v. Barnhart</i> , including the contingent-fee agreement, the character of counsel's representation, and the result achieved.
PRECEDENTIAL VALUE	Unknown; district court order
PARTIES	SB v. Commissioner of Social Security Administration

TOPICS

[remedies](#) [administrative law](#) [appellate procedure](#) [judicial review of agency action](#)

PRACTICE AREAS

QUESTIONS PRESENTED

1. Whether counsel's requested fee of \$78,668.50, equal to 25 percent of the past-due benefits, was reasonable under 42 U.S.C. § 406(b)(1)(A).
2. Whether counsel was required to refund the previously awarded EAJA fees to Plaintiff after receiving the § 406(b) fee.

HOLDINGS

1. A requested § 406(b) fee equal to 25 percent of past-due benefits is reasonable where the claimant agreed to that contingent fee, counsel provided competent and diligent representation without undue delay, the result was favorable, and the effective hourly rate was not an unwarranted windfall.
2. When counsel receives fees under both the EAJA and § 406(b), counsel must refund the smaller fee to the claimant.

KEY QUOTATIONS

“In determining whether fees sought under § 406(b) are reasonable, the Court considers the contingent-fee agreement, the character of the attorney’s representation, and the achieved result.” (at 2)

“IT IS FURTHER ORDERED that Plaintiff’s counsel shall, after receipt of the above-awarded fee, refund to Plaintiff the fee previously awarded under the EAJA, in the amount of \$21,568.70.” (at 4)

FACTUAL BACKGROUND

The ALJ initially denied Plaintiff's claim for Social Security disability benefits, but after appellate proceedings and remand, the ALJ issued a favorable decision. The Commissioner awarded \$314,674 in past-due benefits and withheld \$78,668.50, representing 25 percent of the past-due benefits of Plaintiff and her two children. Counsel documented 93.1 hours of work and sought the full withheld amount under § 406(b). Counsel had previously received an EAJA award of \$21,568.70.

PROCEDURAL HISTORY

An ALJ denied Plaintiff's claim for Social Security disability benefits. This Court affirmed, but Plaintiff appealed to the Ninth Circuit. The parties stipulated to dismissal of the appeal and remand for further administrative proceedings, which the Ninth Circuit granted. On remand, the ALJ issued a favorable decision, Plaintiff received past-due benefits, and this Court previously awarded \$21,568.70 in EAJA fees. Plaintiff's counsel then sought \$78,668.50 under § 406(b), which the Court granted subject to refunding the EAJA award to Plaintiff.

DISPOSITION

other

CASES CITED

- Crawford v. Astrue, 586 F.3d 1142, 1148-49, 1151, 1153 (9th Cir. 2009)
- Gisbrecht v. Barnhart, 535 U.S. 789, 793, 796, 808-09 (2002)
- Young v. Colvin, No. CV-11-538-PHX-SMM, 2014 WL 590335, at *2 (D. Ariz. Feb. 14, 2014)

OPINION

1 WO 2 3 4 5 6 IN THE UNITED STATES DISTRICT COURT 7 FOR THE DISTRICT OF ARIZONA 8 9 SB, No. CV-20-01842-PHX-JAT 10 Plaintiff, ORDER 11 v. 12 Commissioner of Social Security Administration, 13 Defendant. 14 15 Pending before the Court is Plaintiff SB's counsel's Motion for Attorney Fees under 16 42 U.S.C. § 406(b). (Doc. 34).

The Commissioner of the Social Security Administration 17 ("Commissioner") did not respond. The Court now rules. 18 I. BACKGROUND 19 An Administrative Law Judge ("ALJ") denied Plaintiff's claim for Social Security 20 disability benefits in December 2019, and Plaintiff appealed that decision before this Court. 21 (Doc. 1).

The Court affirmed the ALJ's decision. (Doc. 23). Plaintiff appealed to the Ninth 22 Circuit Court of Appeals, (Doc. 25), and the Clerk of Court directed the parties to schedule 23 mediation, (Doc. 28). The parties subsequently filed a Joint Stipulation to Dismiss the 24 Appeal and Remand for Further Proceedings. (Doc. 29).

The Ninth Circuit granted the 25 stipulation and ordered this Court to remand the matter for further administrative 26 proceedings. (Doc. 29; see also Doc. 30 (ordering remand "consistent with the mandate of 27 the Court of Appeals")). Following remand, Plaintiff requested \$21,568.70 in attorney fees 28 under the Equal Access to Justice Act ("EAJA"). (Doc. 32).

The Court found that the fees 1 sought were reasonable for the work performed, granted the unopposed motion, and 2 awarded EAJA fees in the amount of \$21,568.70. (Doc. 33). 3 On remand, the ALJ issued a favorable decision.

The Commissioner issued a Notice 4 of Award that awarded Plaintiff \$314,674 in past-due benefits and set aside \$78,668.50 for 5 payment of attorney fees.¹ (See Doc. 34-1 at 8, 12, 14). Plaintiff's counsel now seeks 25% 6 of Plaintiff's past-due benefits—\$78,668.50—pursuant to § 406(b). 7 II. LEGAL STANDARD 8 A court entering judgment in favor of a Social Security claimant represented by 9 counsel "may determine and allow as part of its judgment a reasonable fee for such 10 representation, not in excess of 25 percent of the total of the past-due benefits to which the 11 claimant is entitled by reason of such judgment." 42 U.S.C. § 406(b)(1)(A).

Though "[t]he 12 statute does not specify how courts should determine whether a requested fee is 13 reasonable," Crawford v. Astrue, 586 F.3d 1142, 1148 (9th Cir. 2009), the Supreme Court 14 has made clear that the first step is to respect "the primacy of lawful attorney-client fee 15

agreements,” *Gisbrecht v. Barnhart*, 535 U.S. 789, 793 (2002). A court may deviate 16 downward from a requested fee award “if the attorney provided substandard representation 17 or delayed the case, or if the requested fee would result in a windfall.” *Crawford*, 586 F.3d 18 at 1151. “Because the [Commissioner] has no direct interest” in how the award is 19 apportioned between client and counsel, district courts must independently “assure that the 20 reasonableness of the fee is established.” *Id.* at 1149.

21 In determining whether fees sought under § 406(b) are reasonable, the Court 22 considers the contingent-fee agreement, the character of the attorney’s representation, and 23 the achieved result. *Gisbrecht*, 535 U.S. at 808.

Although not controlling, courts may also 24 consider the number of hours spent representing the claimant and the attorney’s normal 25 hourly billing rate for non-contingent-fee cases in determining reasonableness. *Id.* at 808– 26 1 Plaintiff’s past-due benefits amounted to \$259,624 and \$64,906 was withheld for attorney fees. (Doc. 34-1 at 8). Plaintiff’s two children were listed beneficiaries on Plaintiff’s Social 27 Security record and 25% of their past-due benefits—\$6,987 and \$6,775.50, respectively— was withheld for payment of attorney fees.

(Doc. 34-1 at 12, 14), The amount withheld 28 between the three recipients of past-due benefits totals to \$78,668.50 (\$64,906 + \$6,987 and \$6,775.50). 1 09. Finally, if a claimant’s attorney receives fees under both the EAJA and § 406(b), the 2 attorney must “refund to the claimant the amount of the smaller fee.” *Id.* at 796 (citation 3 omitted). 4 III. DISCUSSION 5 Applying the *Gisbrecht* factors, the Court finds that the requested fee is reasonable.

6 Plaintiff contractually agreed to pay counsel 25% of her past-due benefits. (Doc. 34-1 at 7 17). Plaintiff’s counsel now seeks \$78,668.50, or 25%, of Plaintiff’s \$314,674 retroactive 8 disability award. (Doc. 34). Counsel’s itemization of services indicates 93.1 hours of 9 attorney services rendered, which equates to a rate of \$845 per hour (\$78,668.50/93.1 10 hours).

(Doc. 34-1 at 23). This rate is in line with effective hourly rates previously approved 11 in this Circuit. See *Young v. Colvin*, No. CV-11-538-PHX-SMM, 2014 WL 590335, at *2 12 (D. Ariz. Feb. 14, 2014) (citing *Crawford*, 586 F.3d at 1153) (noting approval of effective 13 hourly rates of \$519, \$875, and \$902). Further, the effective hourly rate lowers to \$613.30 14 per hour (an 18.1% contingency fee) when the Court factors in the EAJA fees that will be 15 refunded to Plaintiff.

16 Furthermore, upon review of the record, the Court finds no indication that Plaintiff’s 17 counsel engaged in any substandard performance or undue delay in prosecuting Plaintiff’s 18 case. Counsel diligently represented Plaintiff before this Court and the Ninth Circuit Court 19 of Appeals, and through those efforts, Plaintiff was ultimately awarded all benefits for 20 which she applied.

Thus, upon consideration of the *Gisbrecht* reasonableness factors, in addition to the risk involved in the contingency fee arrangement in this case, the Court concludes that a fee award of \$78,668.50 is reasonable and will approve an award in this amount. Because Plaintiff's counsel "must refund to the claimant the amount of the smaller fee [between the attorney fees payable under both the EAJA and § 406(b)]," *Gisbrecht*, 535 U.S. at 796, the Court will order Plaintiff's counsel to refund the \$21,568.70 EAJA award to Plaintiff upon Plaintiff's counsel's receipt of the attorney fees awarded by this Order.

IV. CONCLUSION Accordingly, IT IS ORDERED that Plaintiff's counsel's Motion for Attorney Fees under 42 U.S.C. § 406(b)(1)(A), (Doc. 34), is GRANTED in the amount of \$78,668.50. IT IS FURTHER ORDERED that Plaintiff's counsel shall, after receipt of the above-awarded fee, refund to Plaintiff the fee previously awarded under the EAJA, in the amount of \$21,568.70.

Dated this 3rd day of April, 2026. James A. Teilborg Senior United States District Judge