

UNITED STATES DISTRICT COURT FOR THE DISTRICT OF NEW MEXICO

David L. T. v. Frank Bisignano

David L. T. · No. 1:23-cv-00398-KRS · Decided December 9, 2025

SUMMARY

The United States District Court for the District of New Mexico grants Plaintiff’s motion for attorney fees under 42 U.S.C. § 406(b) following a remand in a Social Security disability-benefits case. The Court authorizes \$37,656.00 in fees from past-due benefits and requires counsel to refund the previously awarded \$6,800.00 Equal Access to Justice Act fee to Plaintiff.

CASE DETAILS

COURT	United States District Court for the District of New Mexico
WRITING FOR THE COURT	Kevin R. Sweazea
JURISDICTION	United States District Court for the District of New Mexico
DECIDED	December 9, 2025
DOCKET	1:23-cv-00398-KRS
DISPOSITION	other
PROCEDURAL POSTURE	Plaintiff moved for authorization of attorney fees under 42 U.S.C. § 406(b) after the court reversed the Commissioner's denial of Social Security disability benefits, remanded for further proceedings, and the Social Security Administration awarded past-due benefits.
STANDARD OF REVIEW	The court independently reviews the requested § 406(b) fee to determine whether it is reasonable, while exercising discretion within the statutory cap of 25 percent of the claimant's past-due benefits.
PRECEDENTIAL VALUE	Unknown; district-court fee order with no reporter citation
PARTIES	David L. T. v. Frank Bisignano, Acting Commissioner of Social Security

TOPICS

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

PRACTICE AREAS

- Social Security
- attorney fees
- administrative law
- civil procedure

QUESTIONS PRESENTED

1. Whether the contingency-fee agreement and requested \$37,656 attorney-fee award satisfied the requirements of 42 U.S.C. § 406(b).
2. Whether the requested § 406(b) fee was reasonable in light of the representation, results achieved, delay, time spent, attorney experience, and effective hourly rate.
3. Whether counsel was required to refund the lesser EAJA award after receiving fees under both EAJA and § 406(b).

HOLDINGS

1. The court may award a reasonable fee under 42 U.S.C. § 406(b) after a remand followed by an award of past-due benefits, but the award may not exceed 25 percent of the claimant's past-due benefits.
2. The requested \$37,656 fee was reasonable and appropriate under § 406(b).
3. Because counsel received both EAJA and § 406(b) fees, counsel must refund the lesser EAJA award of \$6,800 to Plaintiff.

KEY QUOTATIONS

“Having performed its “independent check” duties, the Court finds the requested award of \$37,656.00 to be both appropriate and reasonable.” (Analysis)

“Within the 25 percent boundary, . . . the attorney for the successful claimant must show that the fee sought is reasonable for the services rendered.” (Analysis)

FACTUAL BACKGROUND

After remand from the court, the Social Security Administration found Plaintiff disabled and awarded \$190,624 in past-due benefits. The agency withheld \$47,656, representing 25 percent of the past-due benefits, for potential attorney fees. Plaintiff's counsel sought \$37,656 under a contingency-fee agreement, representing approximately 20 percent of the past-due benefits, and agreed to refund the previously awarded \$6,800 EAJA fee.

PROCEDURAL HISTORY

Plaintiff sought judicial review of the Commissioner's denial of disability benefits. The court reversed and remanded for a new hearing, later awarded \$6,800 in Equal Access to Justice Act fees, and, after the agency found Plaintiff disabled and awarded past-due benefits, Plaintiff's counsel moved for \$37,656 in fees under § 406(b). The court granted the motion and ordered counsel to refund the \$6,800 EAJA award to Plaintiff.

DISPOSITION

other

CASES CITED

- McGraw v. Barnhart, 450 F.3d 493, 496 (10th Cir. 2006)

- *Whitehead v. Richardson*, 446 F.2d 126, 128 (6th Cir. 1971)
- *Wrenn ex rel. Wrenn v. Astrue*, 525 F.3d 931, 933-34 (10th Cir. 2008)
- *Gisbrecht*, 535 U.S. at 807-08
- *Gordon v. Astrue*, 361 F. App'x 933, 2-3 (10th Cir. 2010)
- *McGuire v. Sullivan*, 873 F.2d 974, 983 (7th Cir. 1989)
- *Esperanza L. v. Colvin*, No. 1:23-cv-00478-KRS, 2025 U.S. Dist. LEXIS 9759, at *4, 2025 WL 212316 (D.N.M. Jan. 16, 2025)
- *Audry R. v. Colvin*, No. 1:22-cv-00474-KRS, 2024 U.S. Dist. LEXIS 224434, at *4, 2024 WL 5076214 (D.N.M. Dec. 11, 2024)
- *Ornelas v. O'Malley*, No. 21-01031 KRS, 2024 U.S. Dist. LEXIS 107388, at *4, 2024 WL 3045280 (D.N.M. June 17, 2024)
- *Maldonado v. Kijakazi*, No. 20-CV-01119-KRS, 2023 U.S. Dist. LEXIS 158508, at *8, 2023 WL 5748757 (D.N.M. Sept. 6, 2023)
- *Lovato v. Kijakazi*, No. 20-cv-187-KRS, 2023 U.S. Dist. LEXIS 18802, at *7, 2023 WL 1765380 (D.N.M. Feb. 3, 2023)
- *Kelley v. Saul*, No. CIV 16-618 GJF, 2020 U.S. Dist. LEXIS 122691, 2020 WL 3893055, at *3 (D.N.M. July 10, 2020)
- *Baca v. Saul*, No. CV 17-449 CG, 2020 U.S. Dist. LEXIS 30576, 2020 WL 871547, at *2-3 (D.N.M. Feb. 21, 2020)
- *Valdez v. Saul*, Civ. No. CV 18-444 CG, 2019 U.S. Dist. LEXIS 158041, 2019 WL 4451127, at *2 (D.N.M. Sept. 17, 2019)
- *Threadgill v. Berryhill*, No. CV 16-0287 JHR, 2019 U.S. Dist. LEXIS 63425, 2019 WL 1494034, at *2 (D.N.M. Apr. 4, 2019)
- *Weakley v. Bowen*, 803 F.2d 575, 580 (10th Cir. 1986)

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