

UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF
CALIFORNIA

David Payne v. Commissioner of Social Security

Payne · No. 2:20-cv-02150-CKD · Decided September 22, 2025

SUMMARY

The United States District Court for the Eastern District of California granted plaintiff’s counsel’s motion for attorney fees under 42 U.S.C. § 406(b). The court awarded \$9,533.46 for 19.5 hours of work, subject to a \$3,960.00 offset for fees previously awarded under the Equal Access to Justice Act, which counsel must refund to plaintiff.

CASE DETAILS

COURT	United States District Court for the Eastern District of California
JURISDICTION	United States District Court for the Eastern District of California
DECIDED	September 22, 2025
DOCKET	2:20-cv-02150-CKD
DISPOSITION	other
PROCEDURAL POSTURE	Plaintiff's counsel moved under 42 U.S.C. § 406(b) for an award of attorney fees for services performed before the district court after a stipulated remand and a favorable result for plaintiff.
STANDARD OF REVIEW	The court reviewed the requested contingent fee for reasonableness under 42 U.S.C. § 406(b), considering the character and results of counsel's representation, the hours expended, any evidence of substandard performance, and any dilatory conduct.
PRECEDENTIAL VALUE	Unpublished district court order; precedential status is not established in the opinion text.
PARTIES	David Payne v. Commissioner of Social Security

TOPICS

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

PRACTICE AREAS

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

QUESTIONS PRESENTED

1. Whether counsel's requested \$9,533.46 attorney-fee award was reasonable under 42 U.S.C. § 406(b).
2. Whether the § 406(b) award had to be offset by the \$3,960.00 previously awarded under the Equal Access to Justice Act.

HOLDINGS

1. A fee request within the 25-percent statutory ceiling is not automatically payable; the court must independently review the requested fee for reasonableness in light of the services rendered and the results achieved.
2. The requested \$9,533.46 fee for 19.5 hours of work was reasonable and should be awarded.
3. The \$9,533.46 § 406(b) award must be offset by the \$3,960.00 previously awarded under the Equal Access to Justice Act, and counsel must refund the offset amount to plaintiff.

KEY QUOTATIONS

“However, the 25 percent statutory maximum fee is not an automatic entitlement; the court also must ensure that the requested fee is reasonable.” (1)

“Based on the quality of counsel’s representation and the results achieved in this case, the undersigned finds the number of hours expended to be reasonable.” (2)

FACTUAL BACKGROUND

Counsel devoted 19.5 hours to representing Payne before the district court and sought \$9,533.46 in fees. The representation resulted in a stipulated remand and an award of approximately \$49,000 in disability benefits. Counsel submitted a detailed billing statement, and the court found no substandard performance or dilatory conduct warranting a reduction.

PROCEDURAL HISTORY

The Social Security matter was remanded by stipulation, after which plaintiff received approximately \$49,000 in past-due benefits. Counsel moved for \$9,533.46 in fees under § 406(b), acknowledging that the award had to be offset by \$3,960.00 previously awarded under the Equal Access to Justice Act. The court granted the fee motion and ordered counsel to refund the offset amount to plaintiff.

DISPOSITION

other

CASES CITED

- Russell v. Sullivan, 930 F.2d 1443, 1446 (9th Cir. 1991)
- Sorenson v. Mink, 239 F.3d 1140, 1149 (9th Cir. 2001)
- Gisbrecht v. Barnhart, 535 U.S. 789, 807-09 (2002)

OPINION

David Payne v. Commissioner of Social Security

PER CURIAM.

1 2 3 4 5 6 7

8 UNITED STATES DISTRICT COURT

9 FOR THE EASTERN DISTRICT OF CALIFORNIA

10 11 DAVID PAYNE, No. 2:20-cv-02150-CKD 12 Plaintiff, 13 v. ORDER

14 COMMISSIONER OF SOCIAL

SECURITY,

15 Defendant. 16

17 18 Based on 42 U.S.C. § 406(b), counsel for plaintiff in the above-entitled action seeks an 19
award of attorney fees in the amount of \$9,533.46 for 19.5 hours of professional time devoted to
20 the representation of plaintiff before this court. Counsel concedes that this amount should be 21
offset in the amount of \$3,960.00 for fees previously awarded under EAJA. 22 42 U.S.C. § 406(b)
(1)(A) provides, in relevant part: 23 Whenever a court renders a judgment favorable to a claimant
under this subchapter who was represented before the court by an 24 attorney, the court may
determine and allow as part of its judgment a reasonable fee for such representation, not in excess
of 25 percent 25 of the total of the past-due benefits to which the claimant is entitled by reason of
such judgment. 26 27 Rather than being paid by the government, fees under the Social Security
Act are awarded out of 28 the claimant's disability benefits. *Russell v. Sullivan*, 930 F.2d 1443,
1446 (9th Cir. 1991), 1 | receded from on other grounds, *Sorenson v. Mink*, 239 F.3d 1140, 1149
(9th Cir. 2001). 2 || However, the 25 percent statutory maximum fee is not an automatic
entitlement; the court also 3 || must ensure that the requested fee is reasonable. *Gisbrecht v.*
Barnhart, 535 U.S. 789, 808-09 4 | (2002) ('We hold that § 406(b) does not displace contingent-fee
agreements within the statutory 5 || ceiling; instead, § 406(b) instructs courts to review for
reasonableness fees yielded by those 6 || agreements.'). "Within the 25 percent boundary ... the
attorney for the successful claimant must 7 || show that the fee sought is reasonable for the services
rendered." *Id.* at 807. 8 Counsel seeks fees for 19.5 hours. The Court has considered the character
of counsel's 9 || representation and the good results achieved by counsel, which included an award
of 10 || approximately \$49,000.00 in benefits after a stipulated remand. Counsel submitted a
detailed 11 | billing statement that supports his request. There is no indication that a reduction of
the award is 12 || warranted due to any substandard performance by plaintiff's counsel, as counsel
secured a 13 || successful result. There is also no evidence that plaintiff's counsel engaged in any
dilatory 14 | conduct resulting in delay. 15 Based on the quality of counsel's representation and the
results achieved in this case, the 16 || undersigned finds the number of hours expended to be
reasonable. Accordingly, the undersigned 17 || will award the amount of attorney fees requested.
18 Accordingly, IT IS HEREBY ORDERED that: 19 1. The motion for attorney fees (ECF No. 31)
is GRANTED; and 20 2. Plaintiffs counsel is awarded \$9,533.46 in attorney fees pursuant to 28

U.S.C. § 406, 21 to be offset in the amount of \$3,960.00 previously awarded under EAJA.
□□□□□□□□□□ 22 counsel shall refund plaintiff the offset amount. 23 | Dated: September 22,
2025 / ae / a ly. ae
25 UNITED STATES MAGISTRATE JUDGE
26 27 28 || 2/payn2150.fee-406(a)