

UNITED STATES DISTRICT COURT FOR THE MIDDLE DISTRICT OF
FLORIDA, TAMPA DIVISION

**Gwendolyn Bostick v. Frank Bisignano, Commissioner of Social
Security**

Bostick · No. 8:23-cv-02239-AAS · Decided January 30, 2026

SUMMARY

The United States District Court for the Middle District of Florida granted counsel’s motion for attorney’s fees under 42 U.S.C. § 406(b) following a remand and favorable disability determination for Gwendolyn Bostick. The court awarded \$20,924.50 and ordered counsel to refund the \$3,180.06 previously awarded under the Equal Access to Justice Act.

CASE DETAILS

COURT	United States District Court for the Middle District of Florida, Tampa Division
WRITING FOR THE COURT	Amanda Arnold Sansone
JURISDICTION	United States District Court for the Middle District of Florida, Tampa Division
DECIDED	January 30, 2026
DOCKET	8:23-cv-02239-AAS
DISPOSITION	other
PROCEDURAL POSTURE	After the court remanded an unfavorable Social Security disability determination and the Commissioner found Bostick disabled on remand, Bostick's counsel moved for an award of attorney's fees under 42 U.S.C. § 406(b).
PRECEDENTIAL VALUE	Unknown

TOPICS

attorney fees

judicial review of agency action

administrative law

civil procedure

PRACTICE AREAS

Social Security

administrative law

attorney fees

civil procedure

QUESTIONS PRESENTED

1. Whether counsel should receive \$20,924.50 in attorney's fees under 42 U.S.C. § 406(b) after Bostick obtained a favorable judgment and past-due benefits.
2. Whether counsel must refund the smaller fee previously awarded under the Equal Access to Justice Act upon receiving the § 406(b) award.

HOLDINGS

1. The court granted counsel's motion and awarded \$20,924.50 in attorney's fees under § 406(b), representing the amount withheld from Bostick's past-due benefits.
2. Counsel must refund the \$3,180.06 awarded under the EAJA after receiving the § 406(b) fee award.

KEY QUOTATIONS

“Under Section 406(b), when a court enters judgment favorable to a Social Security claimant represented by counsel, the court may award attorney’s fees not to exceed 25% of the claimant’s total past-due benefits.”

“When an attorney receives attorney’s fees under the EAJA and Section 406(b), the attorney must refund the smaller fee.”

FACTUAL BACKGROUND

Bostick filed for a period of disability and Supplemental Security Income, alleging disability beginning July 5, 2020. The Social Security Administration denied her claim, and an ALJ later issued an unfavorable decision that the Appeals Council declined to review. After this court remanded the decision, the Commissioner found Bostick disabled and awarded past-due benefits, withholding \$20,924.50 for attorney's fees.

PROCEDURAL HISTORY

Bostick applied for disability and Supplemental Security Income benefits, but the application was denied initially and on reconsideration. Following an administrative hearing, an ALJ found her not disabled, and the Appeals Council denied review. Bostick sought judicial review in the Middle District of Florida, which remanded the ALJ's decision and entered judgment in her favor. After a favorable decision on remand, counsel moved for \$20,924.50 in fees under § 406(b); the court granted the motion and required a refund of the \$3,180.06 previously awarded under the EAJA.

DISPOSITION

other

CASES CITED

- Terry v. Astrue, 753 F. Supp. 2d 1229 (M.D. Fla. 2010)
- Black v. Culbertson, 470 F. App'x 737, 739 (11th Cir. 2012)

OPINION

UNITED STATES DISTRICT COURT MIDDLE DISTRICT OF FLORIDA TAMPA DIVISION
GWENDOLYN BOSTICK, Plaintiff, v. Case No. 8:23-cv-02239-AAS FRANK BISIGNANO,1
Commissioner of Social Security, Defendant. _____/
ORDER Plaintiff Gwendolyn Bostick's counsel moves for an award of attorney's fees under 42
U.S.C. § 406(b) in the amount of \$20,924.50.

(Doc. 32). The Commissioner neither supports nor opposes the motion.² (Id. at pp. 7–8). Ms. Bostick filed an application for a period of disability and Supplemental Security Income on July 10, 2020, alleging an onset of disability on July 5, 2020. (Tr. 237–43, 244–45).

The claim was denied initially on 1 Frank Bisignano became the Commissioner of Social Security on May 7, 2025. Pursuant to Rule 25(d) of the Federal Rules of Civil Procedure, Frank Bisignano should be substituted for Leland Dudek as the defendant in this suit. No further action needs to be taken to continue this suit by reason of the last sentence of section 205(g) of the Social Security Act, 42 U.S.C. § 405(g).

2 When the Commissioner does not object to the amount of attorney's fees requested under 406(b), the court should award the requested fees. See *Terry v. Astrue*, 753 F. Supp. 2d 1229 (M.D. Fla. 2010) (awarding attorney's fees under Section 406(b) when the Commissioner failed to argue the requested fees were unreasonable). January 22, 2021 and upon reconsideration on February 25, 2022.

(Tr. 153–59, 167–74). Ms. Bostick timely filed a request for a hearing before an Administrative Law Judge (ALJ). Following the hearing, the ALJ issued an unfavorable decision on December 28, 2022, finding that Ms. Bostick was not disabled. (Tr. 15–43).

The Appeals Council denied Ms. Bostick's request for review of the ALJ's decision. (Tr. 231–33). Ms. Bostick then filed a complaint in this court. (Doc. 1). The court remanded the ALJ's decision for further consideration, and the Clerk entered judgment for Ms. Bostick. (Docs. 27, 28).

The Commissioner found Ms. Bostick disabled on remand. Under Section 406(b), when a court enters judgment favorable to a Social Security claimant represented by counsel, the court may award attorney's fees not to exceed 25% of the claimant's total past-due benefits. 42 U.S.C. § 406(b)(1)(A).

The Social Security Administration awarded Ms. Bostick past- due benefits and withheld \$20,924.50 to pay attorney's fees. (Doc. 32-1). Ms. Bostick's counsel now requests this amount. The court awarded Ms. Bostick \$3,180.06 in attorney's fees under the EAJA. (Doc. 31). When an attorney receives attorney's fees under the EAJA and Section 406(b), the attorney must refund the smaller fee.

Black v. Culbertson, 470 F. App'x 737, 739 (11th Cir. 2012). Ms. Bostick's counsel must refund any attorney's fees awarded under the EAJA. Accordingly, it is ORDERED that the Motion for Attorney's Fees Under 42. U.S.C. § 406(b) (Doc. 32) is GRANTED. Ms. Bostick's counsel is awarded \$20,924.50 in attorney's fees and must refund the \$3,180.06 in attorney's fees received under the EAJA.

ENTERED in Tampa, Florida, on January 30, 2026. Aranda. Arpre (he Sasson, AMANDA ARNOLD SANSONE United States Magistrate Judge