

UNITED STATES DISTRICT COURT FOR THE DISTRICT OF MARYLAND

Wertz v. Commissioner of Social Security

Wertz · No. 8:23-cv-02220-DLB · Decided February 18, 2026

SUMMARY

The United States District Court for the District of Maryland partially granted Emily Wertz’s motion for attorney’s fees under 42 U.S.C. § 406(b) following a successful Social Security appeal. The court awarded counsel \$25,900, based on an hourly rate of \$1,400 for 18.50 hours, and directed counsel to reimburse the claimant for previously received EAJA fees.

CASE DETAILS

COURT	United States District Court for the District of Maryland
WRITING FOR THE COURT	Deborah L. Boardman
JURISDICTION	United States District Court for the District of Maryland
DECIDED	February 18, 2026
DOCKET	8:23-cv-02220-DLB
DISPOSITION	other
PROCEDURAL POSTURE	Motion for attorney's fees under 42 U.S.C. § 406(b) following successful representation in 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 under 42 U.S.C. § 406(b), considering the character of the representation, the results achieved, the hours worked, the attorney's typical hourly rate, and whether the fee would constitute a windfall.
PRECEDENTIAL VALUE	unknown
PARTIES	Emily Wertz v. Commissioner of Social Security

TOPICS

- attorney fees
- remedies
- administrative law
- civil procedure

PRACTICE AREAS

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

QUESTIONS PRESENTED

1. Whether counsel's requested fee of \$33,746.00 under 42 U.S.C. § 406(b) was reasonable.
2. Whether the court should reduce the requested fee because its effective hourly rate would constitute an unreasonable windfall.

HOLDINGS

1. A court must independently review a contingent-fee agreement under section 406(b) to ensure that the resulting fee is reasonable in the particular case and does not constitute a windfall to the attorney.
2. Counsel was entitled to \$25,900.00, but not the full requested amount, because \$1,400.00 per hour for 18.50 hours was reasonable while the requested effective rate of \$1,824.11 per hour was not sufficiently justified.
3. Counsel must reimburse Wertz for the EAJA fees previously received.

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, over four times Mr. Murahari’s typical hourly billing rate at the time, is a reasonable rate in this case.” (Page 2)

FACTUAL BACKGROUND

Wertz entered into a contingent-fee agreement under which she agreed to pay counsel 25 percent of any retroactive benefits awarded. She received \$134,984.00 in past-due benefits, and counsel requested \$33,746.00 for representation before the federal court. Counsel had documented 18.50 hours of chargeable work, had a typical hourly billing rate of \$300, and agreed to reimburse Wertz for \$4,200 in EAJA fees previously received.

PROCEDURAL HISTORY

Wertz's attorney previously obtained an award of \$4,200 under the Equal Access to Justice Act for 18.50 hours of work in federal court. After Wertz received \$134,984.00 in past-due benefits, counsel moved under 42 U.S.C. § 406(b) for \$33,746.00, representing 25 percent of the past-due benefits. Counsel agreed to reimburse Wertz for the EAJA fees previously received. The court granted the motion in part and awarded \$25,900.00, directing counsel to reimburse the EAJA fees.

DISPOSITION

other

CASES CITED

- *Gisbrecht v. Barnhart*, 535 U.S. 789, 796, 807-08 (2002)
- *Stephens ex rel. R.E. v. Astrue*, 565 F.3d 131, 135 (4th Cir. 2009)
- *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. Commissioner, Social Security Administration*, No. SAG-10-2160 (D. Md. July 7, 2016)
- *Arvie W. v. Commissioner, Social Security Administration*, No. SAG-17-1148, 2019 WL 3975187 (D. Md. Aug. 22, 2019)
- *Barbara F. v. Commissioner, Social Security Administration*, No. SAG-17-2090, 2019 WL 3340738 (D. Md. July 25, 2019)
- *Kimberly B. v. Commissioner, Social Security Administration*, No. SAG-16-2519, 2019 WL 1559426 (D. Md. Apr. 10, 2019)
- *Matthew C. v. Commissioner, Social Security Administration*, No. 20-3240, 2023 WL 3043906 (D. Md. Apr. 21, 2023)
- *Gina S. v. Kijakazi*, No. 22-2775-MBAH, 2025 WL 2734092 (D. Md. Sept. 25, 2025)

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