

UNITED STATES DISTRICT COURT FOR THE DISTRICT OF DELAWARE

Denise Painter Roberts v. Frank Bisignano, Commissioner of Social Security

Roberts · No. Civil Action No. 21-14-CJB · Decided November 21, 2025

SUMMARY

The United States District Court for the District of Delaware grants Denise Painter Roberts’s motion for attorney’s fees under § 406(b) of the Social Security Act. The court authorizes payment of \$10,762.50 to counsel from withheld past-due benefits and requires counsel to refund \$6,115.00 in previously received EAJA fees to the plaintiff. The court finds the requested fee reasonable and within the statutory 25 percent limitation.

CASE DETAILS

COURT	United States District Court for the District of Delaware
WRITING FOR THE COURT	Christopher J. Burke
JURISDICTION	United States District Court for the District of Delaware
DECIDED	November 21, 2025
DOCKET	Civil Action No. 21-14-CJB
DISPOSITION	other
PROCEDURAL POSTURE	Plaintiff moved under 42 U.S.C. § 406(b) for authorization of attorney's fees for successful court-related representation in a Social Security disability benefits action following remand for further administrative proceedings.
STANDARD OF REVIEW	The court reviewed the requested contingent fee for reasonableness under 42 U.S.C. § 406(b), subject to the statutory maximum of 25 percent of the claimant's past-due benefits.
PRECEDENTIAL VALUE	Unpublished memorandum order; persuasive rather than precedential.
PARTIES	Denise Painter Roberts v. Frank Bisignano, Commissioner of Social Security

TOPICS

attorney fees

judicial review of agency action

administrative law

remedies

civil procedure

PRACTICE AREAS

Social Security

attorney's fees

administrative law

civil procedure

QUESTIONS PRESENTED

1. Whether the requested attorney's fee under 42 U.S.C. § 406(b) was within the statutory 25-percent cap.
2. Whether the requested § 406(b) fee was reasonable in light of the results obtained, time spent, counsel's experience, contingent-fee risk, and the absence of attorney-caused delay.

HOLDINGS

1. An award of attorney's fees under 42 U.S.C. § 406(b) may not exceed 25 percent of the claimant's total past-due benefits; the requested \$10,762.50 fee, together with the \$7,200.00 hearing-representative fee, did not exceed that limit.
2. The requested \$10,762.50 contingent fee was reasonable and was authorized for payment from Roberts's withheld past-due benefits.
3. Upon receipt of the § 406(b) fee, counsel must remit \$6,115.00 directly to Roberts, representing the EAJA fees previously paid on her behalf.

KEY QUOTATIONS

“The fee must be “reasonable” and shall not exceed “25 percent of the total of the past-due benefits to which the claimant is entitled by reason of such judgment[.]”” (2)

FACTUAL BACKGROUND

Roberts obtained a remand of her claim for disability insurance benefits, and the Social Security Administration later determined that she was entitled to \$71,850.00 in past-due benefits for May 2018 through March 2024. Her contingent-fee agreement provided for 25 percent of past-due benefits, and the agency approved a \$7,200.00 fee for her hearing representative. Counsel sought the remaining portion of the 25 percent maximum, \$10,762.50, and represented that he would refund previously received EAJA fees to Roberts.

PROCEDURAL HISTORY

Roberts filed an action under 42 U.S.C. § 405(g) seeking review of the Commissioner's denial of disability insurance benefits. Her counsel obtained a remand for further administrative proceedings. After the Social Security Administration withheld past-due benefits for possible payment of court-related attorney's fees, counsel moved for a § 406(b) fee award; the court ordered supplemental information confirming that the requested fee did not exceed the statutory cap.

DISPOSITION

other

CASES CITED

- Wilson v. Astrue, 622 F. Supp. 2d 132, 134, 136-37 (D. Del. 2008)
- Gisbrecht v. Barnhart, 535 U.S. 789, 807 (2002)
- Short v. King, Civil Action No. 22-1361-SRF, 2025 WL 507319, at *1 (D. Del. Feb. 14, 2025)
- Cawby v. Kijakazi, C.A. No. 20-1371-JLH, 2023 WL 8019386, at *1 (D. Del. Nov. 20, 2023)
- Tucker v. Berryhill, Civ. No. 13-1246-LPS, 2017 WL 4613621, at *1 (D. Del. Oct. 16, 2017)
- Furniss v. Astrue, Civil Action No. 05-863-JJF, 2008 WL 3982393, at *1 (D. Del. Aug. 25, 2008)

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