UNITED STATES DISTRICT COURT FOR THE DISTRICT OF MAINE

Duane C. v. Frank J. Bisignano, Commissioner of Social Security

No. 1:23-cv-00189-SDN (D. Me. Mar. 10, 2026) · No. 1:23-cv-00189-SDN · Decided March 10, 2026

SUMMARY

The United States District Court for the District of Maine granted Attorney David Chase's motion for $38,209.50 in attorney fees under 42 U.S.C. § 406(b)(1) for representing Duane C. in Social Security disability proceedings. The court found the fee consistent with the contingent-fee agreement, the statutory 25 percent limit, and applicable reasonableness standards. The award is subject to Attorney Chase refunding the previously awarded Equal Access to Justice Act amount to the plaintiff.

CASE DETAILS

COURT	United States District Court for the District of Maine
WRITING FOR THE COURT	Stacey D. Neumann
JURISDICTION	United States District Court for the District of Maine
DECIDED	March 10, 2026
DOCKET	1:23-cv-00189-SDN
DISPOSITION	other
PROCEDURAL POSTURE	Plaintiff's counsel moved under 42 U.S.C. § 406(b)(1)(A) for an award of attorney fees from Plaintiff's past-due Social Security benefits after the case was remanded to the Social Security Administration and Plaintiff obtained a fully favorable benefits determination.
STANDARD OF REVIEW	The court independently evaluates whether the requested contingent fee is reasonable for the services rendered under 42 U.S.C. § 406(b)(1)(A) and Gisbrecht v. Barnhart.
PRECEDENTIAL VALUE	Unpublished district court memorandum decision; persuasive authority only.
PARTIES	Duane C. v. Frank J. Bisignano, Commissioner of Social Security

TOPICS

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

PRACTICE AREAS

Social Security law attorney fees administrative law

QUESTIONS PRESENTED

1. Whether the requested contingent fee of $38,209.50, representing 25 percent of Plaintiff's past-due benefits, was permissible and reasonable under 42 U.S.C. § 406(b)(1)(A).
2. Whether counsel was required to refund the prior EAJA fee award to Plaintiff after receiving the § 406(b) fee.

HOLDINGS

1. The requested fee of $38,209.50, or 25 percent of Plaintiff's past-due benefits, whichever is less, was permissible and reasonable under 42 U.S.C. § 406(b)(1)(A).
2. After receiving the § 406(b) fee, counsel must refund to Plaintiff the amount of the earlier EAJA award, because the smaller of the EAJA and § 406(b) awards must be returned to the claimant.

KEY QUOTATIONS

> *"Reduction in the amount that otherwise would be payable pursuant to a contingent fee agreement between a claimant and attorney is appropriate to the extent that (i) counsel's conduct is improper or representation substandard; for example, an attorney is responsible for a delay that has caused an accumulation of past-due benefits, or (ii) the benefits are [sufficiently] disproportionate in relation to the amount of time counsel spent on the case to "implicate windfall concerns.""* (Discussion)

> *"Accordingly, the Motion for Award of Attorney Fees is GRANTED, ECF No. 20, and the Court ORDERS that a fee award in the amount of $38,209.50 or 25% of Plaintiff's past-due benefits, whichever is less, be paid to Attorney Chase from Plaintiff's past-due benefits in accordance with Social Security Administration policy, subject to the requirement that Attorney Chase pay Plaintiff the amount of any earlier award, the sum earlier awarded to Attorney Chase pursuant to the Equal Access to Justice Act."* (Conclusion)

FACTUAL BACKGROUND

Plaintiff agreed to pay Attorney David Chase a contingent fee of 25 percent of any past-due Social Security Disability benefits. Chase represented Plaintiff in this Court, after which the Commissioner moved for remand and the Appeals Council remanded the matter for further proceedings. Plaintiff subsequently received a fully favorable determination with approximately $152,838.00 in past-due benefits, from which the Social Security Administration withheld 25 percent for attorney fees. Chase sought $38,209.50 under § 406(b), and the record showed 26.35 hours of work, an effective hourly rate of $1,450.08, and a prior EAJA award that Chase agreed to refund to Plaintiff.

PROCEDURAL HISTORY

The Commissioner moved unopposed to remand the case for further administrative proceedings, and the Court granted that motion. The Social Security Appeals Council remanded for a hearing, after which Plaintiff received a fully favorable judgment and an award of estimated past-due benefits. The Court had previously approved an

EAJA fee award of $4,837.77. Plaintiff's attorney then sought $38,209.50 under § 406(b), and the Court granted the motion subject to refunding the smaller EAJA award to Plaintiff.

DISPOSITION

other

CASES CITED

- Gisbrecht v. Barnhart, 535 U.S. 789, 796 (2002)
- Gisbrecht v. Barnhart, 535 U.S. 789, 807 (2002)
- Michelle B. v. O'Malley, No. 21-CV-00337, 2024 WL 657000, at *1 (D. Me. Feb. 16, 2024), report and recommendation aff'd, 2024 WL 3718347 (Aug. 8, 2024)
- Beaulieu v. Colvin, No. 10-CV-454, 2016 WL 675646, at *2 (D. Me. Jan. 28, 2016), report and recommendation aff'd, 2016 WL 675646 (Feb. 18, 2016)
- Christopher H. v. Kijakazi, No. 18-CV-00355, 2022 WL 17668469, at *1 (D. Me. Dec. 14, 2022)
- Alan S. v. Kijakazi, No. 18-CV-00199 (D. Me. Jan. 9, 2023)
- Weed v. Colvin, No. 14-CV-271, 2016 WL 3919849, at *2–3 (D. Me. July 15, 2016)

OPINION

UNITED STATES DISTRICT COURT DISTRICT OF MAINE DUANE C.,)) Plaintiff,)) v.) 1:23-cv-00189-SDN) FRANK J. BISIGNANO,) Commissioner of Social Security,)) Defendant.) MEMORANDUM OF DECISION AND ORDER ON MOTION FOR AWARD OF ATTORNEY FEES On March 3, 2026, Attorney David Chase filed a motion for an award of attorney fees in the amount of $38,209.50 pursuant to 42 U.S.C. § 406(b)(1) for work performed on behalf of Plaintiff Duane C. ECF No. 20.

On March 5, 2026, the Commissioner responded. ECF No. 21. For the reasons detailed below, I grant Attorney Chase's motion. BACKGROUND In this matter, Plaintiff agreed to pay Attorney Chase a contingent fee for representation in the amount of 25 percent of the total of any past-due Social Security Disability Benefits awarded to him. See ECF No. 20-4 at 1. Attorney Chase represented Plaintiff in this Court for judicial review of several unfavorable decisions by an Administrative Law Judge denying Plaintiff's claim for Disability Benefits from the Social Security Administration.

See ECF No. 20 at 4–5. On October 24, 2023, the Social Security Commissioner submitted an unopposed motion to remand the case to the Social Security Administration for further proceedings. ECF No. 13. The Court granted the motion to remand. ECF No. 14.

The Social Security Appeals Council remanded the case for a hearing that resulted in a fully favorable judgment in favor of Plaintiff for an estimated $152,838.001 in past-due Disability Benefits and $2,178.00 in regular monthly payments. See ECF No. 20-1 at 2.

The Social Security Administration explained it withheld 25 percent of Plaintiff's award for the work performed by Attorney Chase, amounting in $38,209.50. Id. at 3. This Court previously entered an order approving payment to Attorney Chase under the Equal Access to Justice Act ("EAJA") in the amount of $4,837.77. See ECF No. 19. Attorney Chase admits an EAJA payment was ordered in this case and that he has an obligation to refund the amount to Plaintiff after receiving attorney fees.

See ECF No. 20 at 3–4, 6. DISCUSSION Section 406(b) of the Social Security Act provides that when a court renders a judgment favorable to a represented claimant, "the court may determine and allow as part of its judgment a reasonable fee for such representation, not in excess of 25 percent of the total of the past-due benefits to which the claimant is entitled by reason of such judgment." 42 U.S.C. § 406(b)(1)(A).

The Supreme Court holds that contingent fee agreements are permissible in matters involving Social Security benefits claimants. See Gisbrecht v. Barnhart, 535 U.S. 789, 807 (2002). However, the Court must be satisfied "that the fee sought is reasonable for the services rendered." Id. This Court has previously recognized that: Reduction in the amount that otherwise would be payable pursuant to a contingent fee agreement between a claimant and attorney is appropriate to the extent that (i) counsel's conduct is improper or representation substandard; for example, an attorney is responsible for a delay that has caused an accumulation of past-due benefits, or (ii) the benefits are 1 The Notice of Award does not specify the total amount of past-due benefits.

See ECF No. 20-1. The Notice indicates $39,209.50 was withheld from retroactive benefits for attorney fees. Id. at 2. Attorney Chase calculated that this would amount to a retroactive benefits total of $152,838.00 if the withheld amount equates to 25% of the past-due benefits, with which the Court agrees. ECF No. 20 at 1 n.1. [sufficiently] disproportionate in relation to the amount of time counsel spent on the case to "implicate windfall concerns." Michelle B. v. O'Malley, No. 21-CV-00337, 2024 WL 657000, at *1 (D.

Me. Feb. 16, 2024), report and recommendation aff'd, 2024 WL 3718347 (Aug. 8, 2024) (quoting Beaulieu v. Colvin, No. 10-CV-454, 2016 WL 675646, at *2 (D. Me. Jan. 28, 2016), report and recommendation aff'd, 2016 WL 675646 (Feb. 18, 2016)) (alteration in Michelle B.). Lastly, if the claimant's representative received fees pursuant to the EAJA, the representative must refund the smaller fee amount to claimant.

See Gisbrecht, 535 U.S. at 796. Based on the submitted billing statements, the above fee equates to an hourly rate of $1,450.08 for 26.35 hours and is thereby reasonable under the law. See ECF 20-5. The Commissioner neither supports nor opposes counsel's fee amount in this matter. ECF No. 21 at 1. I agree with Attorney Chase that the fee is permissible by law.

First, “the fee request conforms with the Plaintiff’s contingent fee agreement and does not exceed the 25 [percent] statutory limit.” Christopher H. v. Kijakazi, No. 18-CV- 00355, 2022 WL 17668469, at *1 (D. Me. Dec. 14, 2022).

Second, Plaintiff’s counsel’s “work in this Court prompted a motion for remand, and the Commissioner has provided nothing to suggest that the Plaintiff’s subsequent success was not due to the efforts of his attorney.” Id. Third, there is no “suggestion of inadequate representation, delay, or an inordinately easy case.” Id. Finally, the effective hourly rate is in harmony with amounts this Court has previously deemed reasonable.

See Order (ECF No. 23), Alan S. v. Kijakazi, No. 18-CV-00199 (D. Me. Jan. 9, 2023) (approving a Section 406(b) fee with an effective hourly rate of $2,158.20); Christopher H., 2022 WL 17668469, at *1 (approving a Section 406(b) fee with an effectively hourly rate of $1,190.48); Weed v. Colvin, No. 14-CV-271, 2016 WL 3919849, at *2–3 (D. Me. July 15, 2016) (approving a Section 406(b) fee with an effective hourly rate of $1,279.56).

CONCLUSION Accordingly, the Motion for Award of Attorney Fees is GRANTED, ECF No. 20, and the Court ORDERS that a fee award in the amount of $38,209.50 or 25% of Plaintiff’s past-due benefits, whichever is less, be paid to Attorney Chase from Plaintiff’s past-due benefits in accordance with Social Security Administration policy, subject to the requirement that Attorney Chase pay Plaintiff the amount of any earlier award, the sum earlier awarded to Attorney Chase pursuant to the Equal Access to Justice Act.

SO ORDERED. Dated this 10th day of March, 2026. /s/ Stacey D. Neumann UNITED STATES DISTRICT JUDGE

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