

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 <i>Gisbrecht v. Barnhart</i> .
PRECEDENTIAL VALUE	Unpublished district court memorandum decision; persuasive authority only.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

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)