

UNITED STATES DISTRICT COURT FOR THE SOUTHERN DISTRICT OF  
CALIFORNIA

James T. v. Frank Bisignano

James T. · No. 22cv0694-SBC · Decided August 21, 2025

SUMMARY

The United States District Court for the Southern District of California granted plaintiff’s counsel’s motion for attorney’s fees under 42 U.S.C. § 406(b) following a remand in a Social Security disability case and a fully favorable decision on remand. The court approved \$40,336.00 in fees, payable from plaintiff’s past-due benefits, and ordered counsel to refund the previously awarded \$5,261.00 in Equal Access to Justice Act fees to plaintiff.

CASE DETAILS

|                       |                                                                                                                                                                                                                                                                                          |
|-----------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| COURT                 | United States District Court for the Southern District of California                                                                                                                                                                                                                     |
| WRITING FOR THE COURT | Steve B. Chu                                                                                                                                                                                                                                                                             |
| JURISDICTION          | United States District Court for the Southern District of California                                                                                                                                                                                                                     |
| DECIDED               | August 21, 2025                                                                                                                                                                                                                                                                          |
| DOCKET                | 22cv0694-SBC                                                                                                                                                                                                                                                                             |
| DISPOSITION           | other                                                                                                                                                                                                                                                                                    |
| PROCEDURAL POSTURE    | Plaintiff's counsel moved under 42 U.S.C. § 406(b) for authorization of attorney's fees after obtaining remand and a fully favorable disability determination on remand.                                                                                                                 |
| STANDARD OF REVIEW    | The court determines whether the requested § 406(b) fee is reasonable by first examining the lawful contingent-fee agreement and then assessing whether reduction is warranted for substandard representation, delay, or a fee disproportionate to the time spent and benefits obtained. |
| PRECEDENTIAL VALUE    | unpublished, nonprecedential district court order                                                                                                                                                                                                                                        |
| PARTIES               | James T. v. Frank Bisignano, Commissioner of the Social Security Administration                                                                                                                                                                                                          |

TOPICS

- judicial review of agency action
- administrative law
- remedies

## PRACTICE AREAS

Social Security

administrative law

attorney's fees

## QUESTIONS PRESENTED

1. Whether the contingent-fee agreement and requested \$40,336.00 fee were reasonable under 42 U.S.C. § 406(b).
2. Whether counsel was required to refund the previously awarded \$5,261.00 EAJA fee to Plaintiff after receiving the § 406(b) fee.

## HOLDINGS

1. The requested \$40,336.00 fee was reasonable and did not require a downward adjustment because it was within the 25-percent statutory ceiling, counsel provided timely and effective representation, there was no litigation delay, and the fee was not excessive in relation to the benefits obtained.
2. Counsel must refund the \$5,261.00 previously received under the EAJA to Plaintiff because the EAJA and § 406(b) awards compensated the same work.

## KEY QUOTATIONS

*“[A] district court charged with determining a reasonable fee award under § 406(b)(1)(A) must respect ‘the primacy of lawful attorney-client fee agreements,’ ‘looking first to the contingent-fee agreement, then testing it for reasonableness.’” (at 2)*

*“The court may properly reduce the fee for substandard performance, delay, or benefits that are not in proportion to the time spent on the case.” (at 2)*

*“[I]n order to maximize the award of past-due benefits to claimants and to avoid giving double compensation to attorneys, the savings provision requires a lawyer to offset any fees received under § 406(b) with any award that the attorney receives under § 2412 if the two were for the ‘same work.’” (at 4)*

## FACTUAL BACKGROUND

Plaintiff's counsel represented Plaintiff in federal judicial review proceedings that resulted in remand for further administrative proceedings. On remand, the ALJ issued a fully favorable decision finding Plaintiff disabled as of April 1, 2018, and the Social Security Administration awarded approximately \$161,347.00 in past-due benefits. The representation agreement provided for a fee of up to 25 percent of past-due benefits, and counsel sought \$40,336.00, while counsel had previously received \$5,261.00 under the EAJA.

## PROCEDURAL HISTORY

Plaintiff filed an action under 42 U.S.C. § 405(g) seeking review of an adverse Social Security disability decision. The court resolved the parties' joint motion for judicial review in Plaintiff's favor, remanded for further administrative proceedings, and awarded \$5,261.00 in EAJA fees. On remand, the ALJ found Plaintiff disabled and the Social Security Administration awarded approximately \$161,347.00 in past-due benefits. Plaintiff's counsel then sought \$40,336.00 under § 406(b).

## DISPOSITION

other

## CASES CITED

- Crawford v. Astrue, 586 F.3d 1142, 1148, 1151-52 (9th Cir. 2009)
- Gisbrecht v. Barnhart, 535 U.S. 789, 796, 802 (2002)
- Parrish v. Comm'r of Soc. Sec. Admin., 698 F.3d 1215, 1218 (9th Cir. 2012)
- Tamiko T. v. Kijakazi, Case No. 20cv1229-KSC, 2023 WL 253114, at \*3 (S.D. Cal. Jan. 18, 2023)
- Reddick v. Berryhill, Case No. 16-cv-29-BTM-BLM, 2019 WL 2330895, at \*2 (S.D. Cal. May 30, 2019)
- Roland S. v. Kijakazi, No. 20-cv-1068, 2023 WL 6966153, at \*3 (S.D. Cal. Oct. 20, 2023)

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