

UNITED STATES DISTRICT COURT FOR THE SOUTHERN DISTRICT OF
CALIFORNIA

William Rittel v. Frank Bisignano, Commissioner of Social Security

Rittel · No. 23-cv-01075-BAS-MSB · Decided January 28, 2026

SUMMARY

The United States District Court for the Southern District of California grants William Rittel’s motion for approval of attorney’s fees under 42 U.S.C. § 406(b). The court approves \$6,426.50, representing 25% of past-due Social Security benefits, and finds no basis for a downward adjustment. The court also orders counsel to remit a prior \$1,500 EAJA fee award to Rittel because it compensated the same work.

CASE DETAILS

COURT	United States District Court for the Southern District of California
WRITING FOR THE COURT	Cynthia Bashant
JURISDICTION	United States District Court for the Southern District of California
DECIDED	January 28, 2026
DOCKET	23-cv-01075-BAS-MSB
DISPOSITION	other
PROCEDURAL POSTURE	Plaintiff moved under 42 U.S.C. § 406(b) for approval of attorney's fees after obtaining a favorable Social Security disability decision following remand.
PRECEDENTIAL VALUE	Unknown; district court fee-approval order with no reporter citation

TOPICS

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

PRACTICE AREAS

Social Security administrative law attorney fees civil procedure

QUESTIONS PRESENTED

1. Whether the contingent-fee agreement providing counsel with 25 percent of past-due Social Security benefits produced a reasonable fee under 42 U.S.C. § 406(b).

2. Whether counsel must remit the prior EAJA fee award to the claimant when the EAJA and § 406(b) awards compensate the same work.

HOLDINGS

1. A contingent-fee agreement providing counsel with 25 percent of the claimant's past-due benefits may be approved when the agreement and resulting fee are reasonable and there is no fraud, overreaching, substandard performance, excessive delay, or windfall. The court approved the requested \$6,426.50 fee.
2. When § 406(b) and EAJA fees compensate the same work, counsel must offset the § 406(b) fee by remitting the EAJA award to the claimant.

KEY QUOTATIONS

“Further, where counsel is set to receive a windfall because “the benefits are large in comparison to the amount of time counsel spent on the case, a downward adjustment is similarly in order.”” (at 1)

“Because here Petitioner’s fees under the EAJA and § 406(b) are for the same work, the Court will order Petitioner to remit the \$1,500 fee award to Rittel.” (at 2)

FACTUAL BACKGROUND

Rittel retained Martha Yancey under a contingent-fee agreement providing for payment of 25 percent of past-due benefits if benefits were awarded. After the district court remanded the case to the Social Security Administration, a new administrative hearing resulted in a favorable disability determination. The Administration withheld \$6,426.50 for attorney's fees, and counsel sought court approval under 42 U.S.C. § 406(b). Counsel had spent 6.3 hours on the district-court proceedings and had previously received a \$1,500 EAJA fee award for the same work.

PROCEDURAL HISTORY

An administrative law judge initially denied Rittel's application for disability benefits. Rittel sought judicial review, and the parties jointly moved to reverse and remand; the court granted the motion on October 14, 2023. After a new administrative hearing, the ALJ found Rittel disabled and the Social Security Administration withheld \$6,426.50, representing 25 percent of past-due benefits, for attorney's fees. The court approved the fee and ordered counsel to remit a prior \$1,500 EAJA award to Rittel.

DISPOSITION

other

CASES CITED

- Culbertson v. Berryhill, 586 U.S. 53, 57 (2019)
- Gisbrecht v. Barnhart, 535 U.S. 789, 796-809 (2002)
- Crawford v. Astrue, 586 F.3d 1142, 1147, 1151-52 (9th Cir. 2009) (en banc)
- Parrish v. Commissioner of Social Security Administration, 698 F.3d 1215, 1218 (9th Cir. 2012)

OPINION

Rittel

PER CURIAM.

1 2 3 4 5 6 7

8 UNITED STATES DISTRICT COURT

9 SOUTHERN DISTRICT OF CALIFORNIA

10 11 WILLIAM RITTEL, Case No. 23-cv-01075-BAS-MSB 12 Plaintiff,

ORDER GRANTING PLAINTIFF'S

13 v. MOTION FOR APPROVAL OF

ATTORNEY'S FEES (ECF No. 13)

14 FRANK BISIGNANO, Commissioner of Social Security, 15 Defendant. 16 17 Presently before the Court is Plaintiff William Rittel's ("Rittel") motion for approval 18 of attorney's fees under 42 U.S.C. § 406(b). (ECF No. 13.) The Commissioner of Social 19 Security responded to the motion. (ECF No. 16.) The Court finds Rittel's motion suitable 20 for determination on the papers submitted and without oral argument. See Fed. R. Civ. P. 21 78(b); CivLR 7.1.d.1. For the following reasons, the Court GRANTS the motion for 22 approval of attorney's fees. (ECF No. 13.)

23 I. BACKGROUND

24 Following a decision from an administrative law judge denying Rittel's application 25 for disability benefits under the Social Security Act (ECF No. 1), Rittel retained counsel to 26 challenge that decision in this Court (ECF No. 13 at 2), and entered into a contingent-fee 27 Social Security Representation Agreement ("Representation Agreement"). (ECF No. 13 28 at 3:19-21, Ex. B.) The Representation Agreement provides that Rittel's counsel, Martha 1 Yancey ("Petitioner") should receive 25% of Rittel's back benefits in the event of an award. 2 (Id.) 3 On June 8, 2023, Rittel sought judicial review in this Court. (ECF No. 1.) On

4 October 14, 2023, the Court granted Parties' joint motion to reverse and remand the case 5 to Social Security Administration. (ECF Nos. 9, 10.) After a new administrative hearing, 6 the ALJ issued a favorable decision, finding Plaintiff disabled. (ECF No. 13 at 3:25-26.) 7 On January 5, 2026, the Social Security Administration issued a letter entitled 8 "Important Information," indicating that \$6,426.50 has been withheld for payment of 9 attorney's fees and that \$6,426.50 is the "balance" of 25% of past-due benefits. (Id. at 4:1- 10 6.) 11 Rittel, through Petitioner, now returns to this Court to seek approval of attorney's 12 fees of \$6,426.50. (ECF No. 13.) The Commissioner has filed a response. (ECF No. 18.)

13 II. ANALYSIS

14 The law regulates the fees that attorneys may charge Social Security claimants for 15 representation before the Social Security Administration and a reviewing court. See 42 16 U.S.C. § 406(a)–(b). 17 Rittel received an award of past-due benefits after this Court entered a judgment in 18 her favor (ECF No. 13, Ex. A). Hence, the relevant fee provision is 42 U.S.C. § 406(b). 19 This

statute provides: 20 Whenever a court renders a judgment favorable to a claimant under this subchapter who was represented before the court by an attorney, the court may 21 determine and allow as part of its judgment a reasonable fee for such 22 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, and the 23 Commissioner of Social Security may . . . certify the amount of such fee for 24 payment to such attorney out of, and not in addition to, the amount of such past-due benefits. 25 26 42 U.S.C. § 406(b)(1)(A). Accordingly, § 406(b) limits fees for representation before the 27 court “to no more than 25% of past-due benefits and allows the agency to withhold past- 28 due benefits to pay these fees.” *Culbertson v. Berryhill*, 586 U.S. 53, 57 (2019). 1 Social Security claimants routinely enter into “contingent-fee contracts that produce 2 fees no higher than the 25 percent ceiling.” *Gisbrecht v. Barnhart*, 535 U.S. 789, 800 3 (2002); see also *Crawford v. Astrue*, 586 F.3d 1142, 1147 (9th Cir. 2009) (en banc). In 4 *Gisbrecht*, the Supreme Court determined that “§ 406(b) does not displace contingent-fee 5 agreements as the primary means by which fees are set for successfully representing Social 6 Security benefits claimants in court.” 535 U.S. at 807. Instead, because the statute 7 authorizes a “reasonable fee,” it “calls for court review of such arrangements as an 8 independent check, to assure that they yield reasonable results in particular cases.” See *id.* 9 Further, where a contingency agreement exists, the Supreme Court emphasized that 10 the starting point for assessing the reasonableness of the fee amount is the agreement itself, 11 not the familiar lodestar method. *Gisbrecht*, 535 U.S. at 797–809. In testing the 12 contingency agreement’s reasonableness, the court may appropriately reduce “the 13 attorney’s recovery based on the character of the representation and the results the 14 representative achieved.” *Id.* at 808. For example, a downward adjustment may be 15 justified if the attorney was responsible for delay, “so that the attorney will not profit from 16 the accumulation of benefits during the pendency of the case in court.” *Id.* at 808. 17 Moreover, where counsel is set to receive a windfall because “the benefits are large in 18 comparison to the amount of time counsel spent on the case, a downward adjustment is 19 similarly in order.” See *id.* at 808; accord *Astrue*, 586 F.3d at 1151 (“The court may 20 properly reduce the fee for substandard performance, delay, or benefits that are not in 21 proportion to the time spent on the case.”). “As evidence of the reasonableness of the 22 resulting fee, the court may require counsel to submit a record of hours spent and a 23 statement of normal hourly billing charges.” *Astrue*, 586 F.3d at 1151. However, 24 “‘satellite litigation’ over attorneys’ fees should not be encouraged.” *Id.* at 1152 (quoting 25 *Gisbrecht*, 535 U.S. at 808). Finally, although the court’s focus is on the contingency 26 agreement, the court can “consider the lodestar calculation, but only as an aid in assessing 27 the reasonableness of the fee.” *Id.* 28 1 Rittel’s Representation Agreement provides that Petitioner should receive 25% of 2 Rittel’s back benefits in the event of an award. (ECF No. 13 at 3:19-21, Ex. B.) In 3 assessing whether the requested fee is reasonable, the Court initially notes that there is no 4 evidence of “fraud or overreaching” in the negotiation of the Representation Agreement. 5 See *Astrue*, 586 F.3d at 1145. Indeed, such agreements are common, and Rittel has been 6 given the opportunity to oppose the

motion for approval of her counsel's fee. She has not 7 done so. Further, a reduction for substandard performance is not warranted. Petitioner 8 ably represented Rittel and was successful in obtaining a favorable judgment that led to her 9 award of substantial past-due benefits. Nor is a reduction for delay warranted here. 10 Petitioner met every briefing deadline in this case, and there was thus no "'excessive delay' 11 attributable to" Petitioner in the proceedings before this Court. See *id.* at 1146. 12 In addition, the proposed fee would not be a windfall to Petitioner. The requested 13 fee is "not excessively large in relation to the benefits achieved." See *Astrue*, 586 F.3d at 14 1151. 15 Further, the Court notes that counsel spent 6.3 hours on Torquato's case at the district 16 court level. Therefore, counsel's request for \$6,426.50 in fees amounts to approximately 17 \$1,020.07 an hour. (See ECF No. 13 at 4:7-10.) Counsel highlights various district court 18 decisions in the Ninth Circuit approving comparable fees at comparable hourly rates. (See 19 *id.* at 4.) The Court is persuaded that the effective hourly rate in this case does not 20 demonstrate the fee would be a windfall. 21 Overall, the Court finds that the requested fee is reasonable. Rittel agreed that her 22 counsel would be paid up to 25% of her past-due benefits, and her counsel chose to bear 23 the risk of non-payment in the event that the appeal was unsuccessful. Her counsel now 24 seeks 25% of the past-due benefits. Given the circumstances of the case, the Court finds a 25 downward adjustment to the requested fee is not appropriate. Therefore, the Court will 26 grant Rittel's motion for approval of \$6,426.50 in fees under 42 U.S.C. § 406(b). 27 * * * 28 I Having approved fees under § 406(b), the Court briefly discusses Torquato's 2 ||counsel's prior EAJA award. The Court awarded Petitioner \$1,500 in fees under the EAJA. 3 (ECF No. 12 at 3:7-9.) "Congress amended the EAJA in 1985 to add a savings provision 4 || that allows attorneys to receive fees under both § 406(b) and [EAJA, 28 U.S.C.] § 2412." 5 || *Parrish v. Comm'r of Soc. Sec. Admin.*, 698 F.3d 1215, 1218 (9th Cir. 2012). "However, 6 || in order to maximize the award of past-due benefits to claimants and to avoid giving double 7 || compensation to attorneys, the savings provision requires a lawyer to offset any fees 8 ||received under § 406(b) with any award that the attorney receives under § 2412 if the two 9 || were for the 'same work.' " /d.; see also *Gisbrecht*, 535 U.S. at 796 (noting the claimant's 10 attorney must refund to the claimant the smaller fee amount). Because here Petitioner's 11 || fees under the EAJA and § 406(b) are for the same work, the Court will order Petitioner to 12 || remit the \$1,500 fee award to Rittel.

13 CONCLUSION

14 In light of the foregoing, the Court GRANTS Rittel's motion for approval of 15 || attorney's fees under 42 U.S.C. § 406(b). (ECF No. 13.) The Court approves Petitioner's 16 ||request to receive \$6,426.50 in fees withheld by the Social Security Administration. 17 || Further, the Court ORDERS Petitioner to remit to Rittel the \$1,500 that counsel received 18 under the EAJA (see ECF No. 12). 19 IT IS SO ORDERED. 20 21 || DATED: January 28, 2026 (yi. Duhark 9 H n. Cynthia Bashant, Chief Judge United States District Court 23 24 25 26 27 28

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