UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF CALIFORNIA

Emelia Gallo v. Commissioner of Social Security

Gallo · No. 1:22-cv-00152-GSA · Decided March 27, 2025

SUMMARY

The United States District Court for the Eastern District of California granted counsel's motion for attorney fees under 42 U.S.C. § 406(b) following a remand and subsequent award of past-due Social Security benefits. The court approved a gross fee award of $22,000 and directed counsel to refund the previously awarded $7,000 in EAJA fees to the plaintiff. The court found the requested fee reasonable based on the representation, result achieved, hours worked, and absence of dilatory or substandard conduct.

CASE DETAILS

COURT	United States District Court for the Eastern District of California
WRITING FOR THE COURT	Gary S. Austin
JURISDICTION	United States District Court for the Eastern District of California
DECIDED	March 27, 2025
DOCKET	1:22-cv-00152-GSA
DISPOSITION	other
PROCEDURAL POSTURE	Plaintiff sought attorney fees under 42 U.S.C. § 406(b) after obtaining a remand in a Social Security benefits action and subsequently receiving a favorable disability determination and past-due benefits.
STANDARD OF REVIEW	The court independently reviewed the contingency-fee arrangement to determine whether it produced a reasonable result, considering the character of the representation, the result achieved, counsel's performance and conduct, and whether the fee was excessive in relation to the benefits received.
PRECEDENTIAL VALUE	Unknown
PARTIES	Emelia Gallo v. Commissioner of Social Security

TOPICS

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

PRACTICE AREAS

Social Security law | administrative law | attorney fees | civil procedure

QUESTIONS PRESENTED

1. Whether counsel's requested $22,000 attorney-fee award was reasonable under 42 U.S.C. § 406(b).
2. Whether the requested fee, although producing an effective hourly rate of $711.97, was an impermissible windfall or otherwise excessive.

HOLDINGS

1. A court may approve a contingency-fee award for successful representation of a Social Security claimant when the award does not exceed 25% of past-due benefits and is reasonable in light of the representation and result achieved.
2. A comparatively high effective hourly rate does not by itself make a contingency-fee award unreasonable because the lodestar is only a guidepost in § 406(b) contingency-fee matters and may not fully reflect the risk assumed by counsel.
3. The motion for § 406(b) fees was granted for a gross award of $22,000, and counsel was required to remit the previously awarded $7,000 in EAJA fees directly to Plaintiff upon receipt.

KEY QUOTATIONS

> *"However, the Court must review contingent-fee arrangements "as an independent check, to assure that they yield reasonable results in particular cases.""* (Legal Standard)

> *"Unlike fee motions governed entirely by the lodestar method, in contingency fee matters pursuant to section 406(b) the lodestar is merely a guidepost, and a comparatively high effective hourly rate is generally warranted to compensate counsel for the risk assumed in representing social security claimants."* (Analysis)

FACTUAL BACKGROUND

Plaintiff entered into a contingency-fee agreement providing for attorney fees of up to 25% of past-due benefits and requiring refund of EAJA fees if § 406(b) fees were awarded. Counsel spent 30.9 hours reviewing the administrative record and preparing the summary-judgment motion, obtained a remand, and Plaintiff was ultimately awarded past-due benefits of which the agency withheld 25%, or $22,051.75, for potential payment to counsel. Counsel requested and received approval for a gross § 406(b) award of $22,000, subject to refunding the previously awarded $7,000 in EAJA fees to Plaintiff.

PROCEDURAL HISTORY

Plaintiff filed this action challenging the denial of Social Security benefits. The court granted Plaintiff's motion for summary judgment and remanded for further proceedings; on remand, the agency found Plaintiff disabled and awarded past-due benefits. The court previously awarded $7,000 in EAJA fees, and Plaintiff's counsel then moved for $22,000 in fees under § 406(b).

DISPOSITION

other

CASES CITED

- Gisbrecht v. Barnhart, 535 U.S. 789 (2002)
- Hern v. Barnhart, 262 F. Supp. 2d 1033, 1037 (N.D. Cal. 2003)
- Crawford v. Astrue, 586 F.3d 1142, 1148-49 (9th Cir. 2009) (en banc)
- Vazquez v. Commissioner of Social Security, No. 1:17-CV-1646-JLT, 2020 WL 2793059, at *2 (E.D. Cal. May 29, 2020)
- Ortega v. Commissioner of Social Security, No. 1:12-cv-01030-AWI-SAB, 2015 WL 5021646, at *3 (E.D. Cal. Aug. 21, 2015)
- Thomas v. Colvin, No. 1:11-cv-01291-SKO, 2015 WL 1529331, at *3 (E.D. Cal. Apr. 3, 2015)
- Boyle v. Colvin, No. 1:12-cv-00954-SMS, 2013 WL 6712552, at *2 (E.D. Cal. Dec. 19, 2013)
- Jamieson v. Astrue, No. 1:09-cv-00490-LJO-DLB, 2011 WL 587096, at *2 (E.D. Cal. Feb. 9, 2011)