

UNITED STATES DISTRICT COURT FOR THE DISTRICT OF OREGON

Brandi G. v. Commissioner of Social Security

Brandi G. · No. 6:23-cv-00687-AA · Decided April 9, 2026

SUMMARY

The United States District Court for the District of Oregon granted Plaintiff’s unopposed motion for attorney fees under 42 U.S.C. § 406(b) following a remand and award of past-due Social Security benefits. The court approved \$33,149.50 in fees, representing approximately 19.5% of the past-due benefits, and directed that previously awarded EAJA fees be offset, resulting in a payment of \$15,435.14 less applicable fees. The court found the requested fee reasonable under *Gisbrecht v. Barnhart* and Ninth Circuit precedent.

CASE DETAILS

COURT	United States District Court for the District of Oregon
WRITING FOR THE COURT	Ann Aiken
JURISDICTION	United States District Court for the District of Oregon
DECIDED	April 9, 2026
DOCKET	6:23-cv-00687-AA
DISPOSITION	other
PROCEDURAL POSTURE	Plaintiff moved, without opposition, for attorney fees under 42 U.S.C. § 406(b) following remand and an award of past-due Social Security benefits.
STANDARD OF REVIEW	The court independently reviewed the contingency-fee agreement for compliance with the 25 percent statutory cap and for reasonableness under the circumstances, with Plaintiff's counsel bearing the burden of establishing reasonableness.
PRECEDENTIAL VALUE	Nonprecedential district court opinion
PARTIES	Brandi G. v. Commissioner of Social Security

TOPICS

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

PRACTICE AREAS

QUESTIONS PRESENTED

1. Whether the contingency-fee agreement complied with the 25 percent cap under 42 U.S.C. § 406(b)(1) (A).
2. Whether the requested § 406(b) fee of \$33,149.50 was reasonable under the circumstances.
3. Whether the § 406(b) award had to be offset by previously awarded EAJA fees.

HOLDINGS

1. A Social Security contingency-fee agreement is enforceable under 42 U.S.C. § 406(b) only within the statutory cap of 25 percent of the claimant's past-due benefits; the agreement and requested fee here satisfied that limitation.
2. The requested § 406(b) fee was reasonable and did not constitute an unwarranted windfall.
3. The § 406(b) award must be reduced by the EAJA fees previously received by Plaintiff's counsel, resulting in a payment of \$15,435.14 before applicable processing or user fees.

KEY QUOTATIONS

“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))

“out of, and not in addition to, the amount of such past due benefits.” (42 U.S.C. § 406(b))

“Agreements are unenforceable to the extent that they provide for fees exceeding 25 percent of the past-due benefits.” (535 U.S. at 807)

“the attorney for the successful claimant must show that the fee sought is reasonable for the services rendered.” (535 U.S. at 807)

FACTUAL BACKGROUND

Plaintiff's counsel represented her in a Social Security case that was remanded for further proceedings, after which Plaintiff was awarded \$169,398.00 in past-due benefits. The parties' fee agreement allowed a contingency fee of up to 25 percent of past-due benefits, and counsel sought \$33,149.50, approximately 19.5 percent of the benefits. Counsel had previously received \$17,714.36 in EAJA fees across two proceedings, including an amount affected by garnishment, and agreed to offset those fees against the § 406(b) award.

PROCEDURAL HISTORY

The court remanded the Social Security case on June 4, 2024, based on the parties' stipulation. On August 29, 2024, it awarded Plaintiff \$12,526.99 in attorney fees under the Equal Access to Justice Act. After remand, Plaintiff received \$169,398.00 in past-due benefits, and Plaintiff's counsel sought \$33,149.50 under § 406(b), reduced by previously awarded EAJA fees to a requested payment of \$15,435.14.

DISPOSITION

other

REMAND INSTRUCTIONS

None. The court directed the Commissioner, when issuing the check for the § 406(b) award, to subtract \$17,714.36 in previously awarded EAJA fees and send the remaining \$15,435.14, less applicable processing or user fees, to Plaintiff's attorney. Any amount withheld after all administrative and court attorney fees are paid must be released to Plaintiff.

CASES CITED

- *Gisbrecht v. Barnhart*, 535 U.S. 789 (2002)
- *Crawford v. Astrue*, 586 F.3d 1142, 1149, 1151-53 (9th Cir. 2009) (en banc)
- *Galloway v. Comm'r Soc. Sec. Admin.*, No. 6:18-cv-00982-MC (Sept. 9, 2019), ECF No. 27

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