

UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF
MISSOURI, EASTERN DIVISION

Lisa Marie Bedore v. Frank Bisignano

Bedore · No. 4:22-CV-00567-SPM · Decided March 9, 2026

SUMMARY

The United States District Court for the Eastern District of Missouri grants Plaintiff’s counsel’s motion for attorney’s fees under 42 U.S.C. § 406(b) following a successful Social Security benefits remand. The court awards counsel \$22,805.00, representing 25% of Plaintiff’s past-due benefits less fees previously awarded under § 406(a), and finds the amount reasonable under *Gisbrecht v. Barnhart* and related Eighth Circuit authority. Counsel must refund Plaintiff the \$6,500.00 previously awarded under the Equal Access to Justice Act.

CASE DETAILS

COURT	United States District Court for the Eastern District of Missouri, Eastern Division
WRITING FOR THE COURT	Shirley Padmore Mensah
JURISDICTION	United States District Court for the Eastern District of Missouri
DECIDED	March 9, 2026
DOCKET	4:22-CV-00567-SPM
DISPOSITION	other
PROCEDURAL POSTURE	Plaintiff's attorney moved for an award of attorney fees under 42 U.S.C. § 406(b) following a sentence-four remand, a fully favorable Social Security Administration decision, and an award of past-due benefits.
STANDARD OF REVIEW	The court independently reviews a contingent-fee agreement and determines whether the requested § 406(b) fee is reasonable in light of the character of the representation, results achieved, counsel's responsibility for delay, and whether the benefits were large in comparison to the time expended.
PRECEDENTIAL VALUE	nonprecedential district court memorandum and order

TOPICS

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

PRACTICE AREAS

Social Security

administrative law

attorney fees

remedies

QUESTIONS PRESENTED

1. Whether Plaintiff's counsel was entitled to an award of \$22,805.00 under 42 U.S.C. § 406(b)(1)(A).
2. Whether the contingent-fee agreement and requested fee produced a reasonable result under the independent review required by *Gisbrecht v. Barnhart*.
3. Whether counsel was required to refund the previously awarded \$6,500.00 EAJA fee to Plaintiff.

HOLDINGS

1. The court may award counsel a fee under 42 U.S.C. § 406(b)(1)(A) not exceeding 25 percent of the claimant's past-due benefits, and the requested \$22,805.00 fee was reasonable in this case.
2. Because counsel received fees under both the EAJA and § 406(b), counsel must refund Plaintiff the smaller previously awarded EAJA fee of \$6,500.00.

KEY QUOTATIONS

“§ 406(b) does not displace contingent-fee arrangements as the primary means by which fees are set for successfully representing Social Security benefits claimants in court. Rather, § 406(b) calls for court review of such arrangements as an independent check, to assure that they yield reasonable results in particular cases.”
(at 2)

“The request for fees is in accordance with Plaintiff’s counsel’s written contract with Plaintiff and is in compliance with § 406(b)(1)(A) because it does not exceed 25% of the total of the past-due benefits awarded.” (at 3)

“Plaintiff’s counsel shall refund Plaintiff the \$6,500.00 previously awarded under the Equal Access to Justice Act, 28 U.S.C. § 2412.” (at 4)

FACTUAL BACKGROUND

Plaintiff entered into a written contingent-fee agreement providing that counsel would receive 25 percent of past-due benefits obtained after a district-court remand or reversal. Following the remand, the Social Security Administration awarded Plaintiff \$120,020.00 in past-due benefits and withheld \$30,005.00, representing 25 percent of those benefits. Counsel had received \$7,200.00 under § 406(a) and sought the remaining \$22,805.00 under § 406(b), based on 28.9 hours of work before the district court.

PROCEDURAL HISTORY

The court previously reversed and remanded the Social Security matter to the Commissioner pursuant to sentence four of 42 U.S.C. § 405(g). On remand, the Social Security Administration issued a fully favorable decision and awarded Plaintiff \$120,020.00 in past-due benefits. The court had previously awarded \$6,500.00 in EAJA fees, and Plaintiff's counsel then sought \$22,805.00 under § 406(b), representing the balance of the 25-percent contingent fee after \$7,200.00 had been awarded under § 406(a).

DISPOSITION

other

CASES CITED

- *Gisbrecht v. Barnhart*, 535 U.S. 789 (2002)
- *Jones v. Berryhill*, 699 F. App'x 587 (8th Cir. 2017)
- *Bunton v. O'Malley*, No. 4:20-CV-00914-AGF, 2024 WL 1636701 (E.D. Mo. Apr. 16, 2024)

OPINION

UNITED STATES DISTRICT COURT EASTERN DISTRICT OF MISSOURI EASTERN DIVISION LISA MARIE BEDORE,)) Plaintiff,)) v.)) Case No 4:22-CV-00567-SPM)) FRANK BISIGNANO, 1) Commissioner of Social Security,)) Defendant.) MEMORANDUM AND ORDER This matter is before the Court on Plaintiff's Attorney's Motion for an Award of Attorney Fees Under 42 U.S.C. § 406(b).

ECF No. 21. On September 18, 2023, this Court entered a final judgment reversing and remanding this case to the Commissioner of Social Security for further action pursuant to sentence four of 42 U.S.C. § 405(g). ECF No. 17.

On January 5, 2024, this Court awarded Plaintiff attorney's fees in the amount of \$6,500.00 under the Equal Access to Justice Act ("EAJA"), 28 U.S.C. § 2412. ECF No. 20. Following the remand by this Court, the Social Security Administration entered a fully favorable decision and awarded Plaintiff \$120,020.00 in past due benefits. ECF Nos. 21-3 & 21-4. 1 Frank Bisignano is now the Commissioner of Social Security.

Pursuant to Rule 25(d) of the Federal Rules of Civil Procedure, Frank Bisignano is substituted as the defendant in this suit. No further action need be taken to continue this suit by reason of the last sentence of section 205(g) of the Social Security Act, 42 U.S.C. § 405(g). 1 Plaintiff's attorney, Kelsey Young, now seeks attorney's fees in the amount of \$22,805.00 under 42 U.S.C. § 406(b).

Before Plaintiff's case was filed in this Court, Plaintiff signed a fee agreement in which she stated, "I agree that should I receive my benefits from the Administration after winning a remand or reversal from the United States District Court my attorney is entitled to 25% of my back pay for work performed in front of the United States District Court." ECF No. 21-5.

The Social Security Administration withheld \$30,005.00 from Plaintiff's past-due benefits to pay her representative. ECF No. 21-4. Plaintiff's counsel represents that she has already received \$7,200.00 of that amount pursuant to § 406(a). ECF No. 21-4; ECF No. 21-1, at 8.

The \$22,805.00 Plaintiff's counsel now seeks represents 25% of the total past due benefits (\$30,005.00) minus the attorney's fees already received under § 406(a) (\$7,200.00). Defendant

filed a response stating that it neither supports nor opposes counsel's request for attorney's fees. ECF No. 22.

Under 42 U.S.C. § 406(b)(1)(A), 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 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....

The Supreme Court has held that “§ 406(b) does not displace contingent-fee arrangements as the primary means by which fees are set for successfully representing Social Security benefits claimants in court. Rather, § 406(b) calls for court review of such arrangements as an independent check, to assure that they yield reasonable results in particular cases.” *Gisbrecht v. Barnhart*, 535 U.S. 789, 807 (2002). “[T]he attorney for the successful claimant must show that the fee sought is reasonable for the services rendered.” *Id.* The court should examine the contingent-fee agreement, test the agreement for reasonableness, and then (if necessary), reduce the fee award based on the character of the representation and the results the representation achieved.

Id. at 808. The Eighth Circuit has considered the following factors relevant to the district court's reasonableness inquiry: “the hourly rate,... the character of the representation and results achieved, whether counsel was responsible for delay, and whether the benefits achieved were large in comparison to the time expended by counsel.” *Jones v. Berryhill*, 699 F. App'x 587, 588 (8th Cir.

2017) (citing *Gisbrecht*, 535 U.S. at 807-08). As Plaintiff's attorney acknowledges, where fees have been awarded under both the EAJA and § 406(b), the plaintiff's attorney must refund to the plaintiff the amount of the smaller fee. *Gisbrecht*, 535 U.S. at 796. See also ECF No. 21-1, at 12.

In support of Plaintiff's counsel's request for a fee award of \$22,805.00, Plaintiff's counsel has submitted a copy of the contingent fee agreement signed by Plaintiff, a copy of the award of benefits letter sent to Plaintiff by the Social Security Administration, and an itemized description of the 28.9 hours Plaintiff's counsel spent before this Court on this case.

The request for fees is in accordance with Plaintiff's counsel's written contract with Plaintiff and is in compliance with § 406(b)(1)(A) because it does not exceed 25% of the total of the past-due benefits awarded. Additionally, after conducting an “independent check” in light of the factors set forth above, the Court finds that the fee agreement yields a reasonable result in this case.

The Supreme Court has noted that contingency fee agreements for the statutory maximum of 25% “are the most common fee arrangement between attorneys and Social Security claimants,” *Gisbrecht*, 535 U.S. at 800, and nothing suggests that that this common arrangement was unreasonable in this case. Plaintiff's counsel competently represented Plaintiff and achieved a very successful result for her, and it does not appear that counsel was responsible for delay.

Additionally, the effective hourly rate of \$789.10 per hour is comparable to (or lower than) rates approved for § 406(b) fees awarded pursuant to contingency fee agreements in other cases within the Eighth Circuit. See, e.g., *Bunton v. O'Malley*, No. 4:20-CV-00914-AGF, 2024 WL 1636701, at *2 (E.D. Mo. Apr. 16, 2024) (collecting cases approving rates ranging from \$805.08 per hour to \$2,016.27 per hour).

In sum, given the contingent nature of the representation, the work performed, and the results achieved in this particular case, the Court finds that the requested fee is reasonable. For all of the above reasons, IT IS HEREBY ORDERED that Plaintiff's Attorney's Motion for an Award of Attorney Fees Under 42 U.S.C. § 406(b) [ECF No. 21] is GRANTED. IT IS FURTHER ORDERED that Defendant shall remit to Kelsey Young attorney's fees in the amount of \$22,805.00.

IT IS FINALLY ORDERED that Plaintiff's counsel shall refund Plaintiff the \$6,500.00 previously awarded under the Equal Access to Justice Act, 28 U.S.C. § 2412. In 0 SHIRLEY PADMORE MENSAH UNITED STATES MAGISTRATE JUDGE Dated this 9th day of March, 2026.