

UNITED STATES DISTRICT COURT FOR THE DISTRICT OF ARIZONA

Christina Herrera v. Commissioner of Social Security Administration

Herrera · No. CV-18-02658-PHX-KML · Decided January 29, 2026

SUMMARY

The United States District Court for the District of Arizona grants plaintiff's counsel's motion for attorneys' fees under 42 U.S.C. § 406(b) in the amount of \$46,258.75. The court finds the 25% contingent-fee agreement reasonable and orders counsel to refund the \$8,164.80 previously awarded under the Equal Access to Justice Act.

CASE DETAILS

COURT	United States District Court for the District of Arizona
WRITING FOR THE COURT	Krissa M. Lanham
JURISDICTION	United States District Court for the District of Arizona
DECIDED	January 29, 2026
DOCKET	CV-18-02658-PHX-KML
DISPOSITION	other
PROCEDURAL POSTURE	Plaintiff's counsel moved for an award of attorney's fees under 42 U.S.C. § 406(b) after the court had reversed and remanded the Social Security Administration's decision and the agency later awarded past-due benefits.
STANDARD OF REVIEW	Reasonableness review of a contingent-fee agreement and requested fee under 42 U.S.C. § 406(b).
PRECEDENTIAL VALUE	unknown

TOPICS

remedies administrative law judicial review of agency action

PRACTICE AREAS

Social Security administrative law attorney's fees

QUESTIONS PRESENTED

1. Whether the 25-percent contingent-fee agreement and the resulting request for \$46,258.75 constituted a reasonable fee under 42 U.S.C. § 406(b).
2. Whether counsel was required to refund the previously awarded Equal Access to Justice Act fees to Herrera after receiving the § 406(b) fee.

HOLDINGS

1. The requested fee of \$46,258.75 was reasonable and could be awarded under 42 U.S.C. § 406(b) because it complied with the 25-percent contingent-fee agreement, there was no evidence of fraud, overreaching, poor performance, or delay, and the effective hourly rate was reasonable in light of the work performed and the risk of nonrecovery.
2. After receiving the § 406(b) fee, plaintiff's counsel must refund to Herrera the \$8,164.80 previously awarded under the Equal Access to Justice Act.

KEY QUOTATIONS

“When an attorney files a request for fees under § 406(b), the court must “look[] first to the contingent-fee agreement, then test[] it for reasonableness.”” (at 2)

“There is “no evidence of fraud or overreaching in the making of the 25% contingent-fee agreement[],” so the 25% permitted by the agreement is an appropriate starting point.” (at 2)

FACTUAL BACKGROUND

Herrera entered a contingency-fee agreement providing that attorney Mark Caldwell would receive 25 percent of past-due benefits for federal-court representation. After the court remanded the administrative decision, Herrera and her child were awarded benefits, and the agency withheld \$58,233.75 for attorney fees. Caldwell sought \$46,258.75 under § 406(b), representing the withheld amount less \$11,975 paid to administrative counsel, based on 40.5 hours of work.

PROCEDURAL HISTORY

Herrera applied for disability benefits in 2014, and an Administrative Law Judge issued a partially favorable decision. Herrera filed this federal action in 2018. In April 2019, the court reversed the ALJ's decision and remanded for further proceedings, and later awarded counsel \$8,164.80 under the Equal Access to Justice Act. After Herrera and her child received benefits, the agency withheld \$58,233.75 for attorney fees. Counsel sought \$46,258.75 under § 406(b), after subtracting \$11,975 in fees paid for administrative representation. The court granted the motion and required counsel to refund the EAJA award to Herrera.

DISPOSITION

other

CASES CITED

- Crawford v. Astrue, 586 F.3d 1142 (9th Cir. 2009)

