

UNITED STATES DISTRICT COURT FOR THE DISTRICT OF NEW JERSEY

Kiara R. v. Commissioner of Social Security

No. Civil Action No. 22-00683 (RK), United States District Court for the District of New Jersey (February 25, 2026)

SUMMARY

The United States District Court for the District of New Jersey granted counsel’s motion for attorney’s fees under 42 U.S.C. § 406(b)(1)(A) in a Social Security disability case. The court approved \$19,464.75, representing 25% of the claimant’s past-due benefits, and directed counsel to refund the \$8,500 previously awarded under the Equal Access to Justice Act. The court found the fee reasonable based on the representation, results achieved, timeliness, hourly equivalent, and fee agreement.

CASE DETAILS

COURT	United States District Court for the District of New Jersey
WRITING FOR THE COURT	Robert Kirsch
JURISDICTION	United States District Court for the District of New Jersey
DECIDED	February 25, 2026
DOCKET	Civil Action No. 22-00683 (RK)
DISPOSITION	other
PROCEDURAL POSTURE	Plaintiff's counsel moved under 42 U.S.C. § 406(b) for approval of \$19,464.75 in attorney's fees from the claimant's retroactive Social Security benefits after the case had been remanded for further proceedings and benefits were awarded.
STANDARD OF REVIEW	The court reviews contingency-fee agreements under 42 U.S.C. § 406(b) for reasonableness, considering the character of the representation, results achieved, counsel's responsibility for delay, the benefits compared with time expended, and the primacy of a lawful attorney-client fee agreement.
PRECEDENTIAL VALUE	Unpublished, nonprecedential memorandum order
PARTIES	Kiara R. v. Commissioner of Social Security

TOPICS

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

PRACTICE AREAS

Social Security

administrative law

attorney fees

remedies

QUESTIONS PRESENTED

1. Whether counsel's request for \$19,464.75 in attorney's fees under 42 U.S.C. § 406(b), equal to 25 percent of Plaintiff's past-due benefits, was reasonable.
2. Whether counsel was required to refund the previously awarded \$8,500 EAJA fee to Plaintiff upon receipt of the § 406(b) fee.

HOLDINGS

1. The requested \$19,464.75 fee was reasonable and could be awarded under 42 U.S.C. § 406(b)(1)(A) because it did not exceed 25 percent of Plaintiff's past-due benefits and was supported by the successful representation, the absence of attorney-caused delay, the hours worked, and the lawful contingency-fee agreement.
2. Because counsel had already received \$8,500 under the EAJA, counsel was required to refund that lesser fee to Plaintiff upon receipt of the \$19,464.75 § 406(b) award.

KEY QUOTATIONS

“the Court must “review for reasonableness fees yielded by [contingency-fee] agreements”” (535 U.S. at 809)

“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,” (42 U.S.C. § 406(b)(1)(A))

“but the attorney must refund the smaller fee awarded between the two amounts to the claimant” (535 U.S. at 796)

FACTUAL BACKGROUND

Counsel represented Plaintiff in the appeal of her Social Security claim and obtained a remand that ultimately resulted in an award of \$77,859.00 in retroactive benefits, with the agency's notice specifying \$77,859.50. The attorney-client fee agreement provided for a fee equal to 25 percent of the past-due benefits. Counsel spent 40.7 hours on the case, previously received \$8,500 under the EAJA, and sought \$19,464.75 under § 406(b).

PROCEDURAL HISTORY

Judge Freda L. Wolfson remanded Plaintiff's request for Social Security benefits for further proceedings. Administrative Law Judge Leonard Costa subsequently awarded Plaintiff Supplemental Security Income benefits, and Judge Wolfson previously awarded counsel \$8,500 under the Equal Access to Justice Act. Counsel then moved for \$19,464.75 under 42 U.S.C. § 406(b), representing 25 percent of the retroactive benefits.

DISPOSITION

other

CASES CITED

- *Gisbrecht v. Barnhart*, 535 U.S. 789 (2002)
- *Acosta v. Commissioner of Social Security*, No. 22-1454, 2022 WL 1598947 (3d Cir. May 20, 2022) (per curiam)
- *Walker v. Astrue*, 593 F.3d 274, 280 (3d Cir. 2010)
- *Heath Reynold L. v. Bisignano*, No. 24-1335, 2025 WL 2899996, at *3 (E.D. Pa. Oct. 9, 2025)

OPINION

NOT FOR PUBLICATION UNITED STATES DISTRICT COURT DISTRICT OF NEW JERSEY. KIARA R., Plaintiff, Civil Action No. 22-00683 (RK) v. MEMORANDUM ORDER COMMISSIONER OF SOCIAL SECURITY, Defendant. KIRSCH, District Judge THIS MATTER, having come before the Court upon the “Motion for Attorney’s Fees Pursuant to 42 U.S.C. § 406(b)” of James Langston (“Mr. Langston”), (ECF No. 25), counsel for Plaintiff Kiara R. (“Plaintiff”), seeking attorney’s fees in the amount of \$19,464.75; and THE COURT NOTING that, having reviewed Mr. Langston’s Motion,” Mr. Langston asserts that he is entitled to \$19,464.75 of the \$77,859.00 in retroactive Social Security benefits awarded to his client for his client’s disability beginning in 2017, equal to 25% of that award.?

(ECF No. 25-3 at 2; ECF No. 25-7.) Mr. Langston asserts that Plaintiff received this award following the Order of the Honorable Freda L. Wolfson, U.S.D.J. (ret.), remanding Plaintiff’s request for benefits for further proceedings, (ECF No. 21; 25-3 at 2), benefits that Administrative ' The Court identifies Plaintiff by first name and last initial only. See D.N.J.

Standing Order 2021-10. Although the Motion is filed under Plaintiffs name, “the real party] in interest [is her] attorney[], who seek[s] to obtain... fee awards under § 406(b).” *Gisbrecht v. Barnhart*, 535 U.S. 789, 798 n.6 (2002). > The Court notes that the Social Security Administration letter specifying Plaintiff’s entitlement to back payment of Supplemental Security Income specifies that Plaintiff is entitled to \$77,859.50.

(ECF No. 25- 7.) However, this hypertechnical discrepancy does not increase Mr. Langston’s requested attorney’s fees nor affect the Court’s decision to grant Mr. Langston’s Motion. Law Judge Leonard Costa subsequently awarded to Plaintiff following that remand, (ECF No. 25- 3 at 2).

On December 28, 2022, Judge Wolfson awarded Mr. Langston \$8,500 in attorney’s fees pursuant to the Equal Access to Justice Act (“EAJA”) for the 40.7 hours he spent working on Plaintiff’s case. ECF Nos. 22-5 (noting 40.7 hours), 24); 28 U.S.C. § 2412(d)(1)(A). Consistent with his January 2022 “Fee Agreement” with Plaintiff, Mr. Langston moved on February 5, 2026 for 25%

of Plaintiff's back payment award, which he contends is a reasonable fee amount, (ECF No. 25-3 at 2-5; ECF No. 25-6); and WHEREAS, the Court may determine that an attorney in a representation before this Court and the Commissioner of Social Security (the "Commissioner") is entitled to 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," 42 U.S.C. § 406(b)(1)(A); and WHEREAS, the Commissioner "neither supports nor opposes" Mr. Langston's Motion, (ECF No. 27 at 2), as he "has no direct financial stake in the answer to the § 406(b) question; instead [he] plays a part in the free determination resembling that of a trustee for the claimant[]," *Gisbrecht v. Barnhart*, 535 U.S. 789, 798 n.6 (2002); and WHEREAS, the Court must "review for reasonableness fees yielded by [contingency-fee] agreements" like Mr. Langston and Plaintiffs, *id.* at 809, including by considering "(1) the character of the representation; (2) the results achieved; (3) whether the attorney was responsible for any delay; and (4) whether the benefits are large in comparison to the amount of time spent on the case," *Acosta v. Comm'r Soc.*

Sec., No. 22-1454, 2022 WL 1598947, at *1 (Gd Cir. May 20, 2022) (per curiam) (citing *Gisbrecht*, 535 U.S. at 808); and WHEREAS, the Court "must also consider 'the primacy of lawful attorney-client fee agreements,'" *id.* (quoting *Gisbrecht*, 535 U.S. at 793); and WHEREAS, counsel may be entitled to attorney's fees under both the EAJA and 42 U.S.C. § 406(b)(1)(A), but the attorney must refund the smaller fee awarded between the two amounts to the claimant, *Gisbrecht*, 535 U.S. at 796; and THE COURT FINDING that Mr. Langston's request for attorney's fees of \$19,464.75 is reasonable.

First, Mr. Langston represented Plaintiff throughout the appeal process, including reviewing the underlying record and medical exhibits, preparing Plaintiff's brief, and working with opposing counsel. (See ECF No. 25-5.)

Second, Mr. Langston was successful in his representation of Plaintiff, securing Supplemental Security Income payments for the period of August 2017 to January 2026. (See ECF No. 25-7.) Third, because Mr. Langston's Motion was within 14 days of when the "notice of award [was] issued by the Commissioner" and when Mr. Langston was "notified of that award," his Motion for fees is timely under Federal Rule of Civil Procedure 54(d)(2).

Walker v. Astrue, 593 F.3d 274, 280 (3d Cir. 2010); ECF No. 25 (motion filed February 5, 2026); ECF No 25-7 (notice of Commissioner's award dated January 28, 2026). Fourth, Mr. Langston's requested fee, averaging to approximately \$478.25 per hour worked, is not excessive when compared to other approved fees throughout this Circuit. See, e.g., *Heath Reynold L. v. Bisignano*, No. 24-1335, 2025 WL 2899996, at *3 (E.D.

Pa. Oct. 9, 2025) (collecting cases permitting § 406(b) fees in excess of \$1,000 per hour). Finally, considering "the primacy of lawful attorney-client fee agreements," the Court will honor Mr.

Langston and Plaintiffs agreement here, which meets the 42 U.S.C. § 406(b)(1)(A) threshold of 25 percent. *Gisbrecht*, 535 U.S. at 793; (ECF No. 25-6).

However, because Mr. Langston already received \$8,500 under the EAJA, he must refund Plaintiff this lesser fee. *Id.* at 796; GECF No. 24.) IT IS on this February 2026, ORDERED that Mr. Langston's Motion (ECF No. 25) is GRANTED; and it is further ORDERED that Mr. Langston refund the EAJA award of \$8,500 to Plaintiff upon receipt of \$19,464.75; and it is further ORDERED that the Clerk of the Court is directed to terminate the Motion pending at ECF No. 25. a a.; / ROBERT.KIRSCH UNITED STATES DISTRICT JUDGE