

UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF
CALIFORNIA

Minerva Garza v. Commissioner of Social Security

Garza · No. 1:22-cv-00207-GSA · Decided July 1, 2025

SUMMARY

The United States District Court for the Eastern District of California granted plaintiff’s counsel’s motion for attorney fees under 42 U.S.C. § 406(b). The court approved a gross fee award of \$28,770.25, representing 25% of the plaintiff’s past-due Social Security benefits, and directed counsel to remit previously awarded EAJA fees of \$7,000 to the plaintiff. The court found the contingency fee reasonable based on the favorable result, counsel’s performance, the time expended, and comparable fee awards.

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	July 1, 2025
DOCKET	1:22-cv-00207-GSA
DISPOSITION	other
PROCEDURAL POSTURE	Plaintiff's counsel moved for an award of attorney fees under 42 U.S.C. § 406(b) after the court entered judgment in Plaintiff's favor, remanded the matter to the agency, and Plaintiff was awarded past-due benefits.
STANDARD OF REVIEW	The court independently reviews a contingent-fee arrangement to determine whether it produces a reasonable result in the particular case, considering the character of the representation, the result achieved, counsel's performance and diligence, and whether the fee is excessive in relation to the benefits obtained.
PRECEDENTIAL VALUE	nonprecedential
PARTIES	Minerva Garza 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 fee of \$28,770.25, equal to 25 percent of Plaintiff's past-due benefits, was reasonable under 42 U.S.C. § 406(b).
2. Whether counsel was required to refund the previously awarded \$7,000.00 in EAJA fees upon receiving the § 406(b) award.

HOLDINGS

1. The requested gross fee of \$28,770.25, equal to 25 percent of Plaintiff's past-due benefits, was reasonable and should be awarded because counsel achieved a favorable result, performed adequately without delay, expended a reasonable amount of time, and the effective hourly rate was not an impermissible windfall.
2. Upon receiving the § 406(b) award, counsel must remit directly to Plaintiff the previously awarded EAJA fees of \$7,000.00.

KEY QUOTATIONS

"Whenever a court renders a judgment favorable to a claimant under [42 USC § 401, et seq] who was represented before the court by an attorney, the court may determine and allow 1 of the total of the past-due benefits to which the claimant is entitled by reason of such judgment . . ." (at 1)

"Congress has provided one boundary line: Agreements are unenforceable to the extent that they provide for fees exceeding 25 percent of the past-due benefits." (at 1)

FACTUAL BACKGROUND

Plaintiff retained counsel under a contingent-fee agreement providing for fees of up to 25 percent of past-due benefits. Counsel spent 32.8 hours reviewing the administrative record and preparing a summary-judgment motion, and Plaintiff ultimately obtained a favorable judgment, remand, and an agency determination awarding \$115,081.00 in past-due benefits. The agency withheld \$28,770.25 for potential payment to counsel, and counsel sought that full amount under § 406(b), subject to refunding the previously awarded \$7,000.00 in EAJA fees.

PROCEDURAL HISTORY

Plaintiff filed an action challenging the Commissioner's denial of Social Security benefits. After the matter was fully briefed, the court entered judgment for Plaintiff and remanded the case. On remand, the agency found Plaintiff disabled and awarded \$115,081.00 in past-due benefits, withholding \$28,770.25, or 25 percent, for potential attorney fees. Counsel previously received \$7,000.00 in EAJA fees and then sought the full withheld amount under § 406(b).

DISPOSITION

other

CASES CITED

- *Gisbrecht v. Barnhart*, 535 U.S. 789, 794 (2002)
- *Gisbrecht v. Barnhart*, 535 U.S. 789, 807-08 (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)
- *Malta v. Commissioner of Social Security*, No. 1:18-CV-00415-CDB, 2024 WL 3618430, at *3 (E.D. Cal. Aug. 1, 2024)
- *Coder v. Commissioner of Social Security*, No. 1:20-cv-00497-CDB, 2024 WL 1742026, at *3 (E.D. Cal. Apr. 23, 2024)
- *Reyna v. Commissioner of Social Security*, No. 1:22-CV-00484-SAB, 2024 WL 4453046, at *2 (E.D. Cal. Oct. 9, 2024)
- *Langston v. Saul*, No. 1:18-CV-00273-SKO, 2020 WL 4501941, at *3 (E.D. Cal. Aug. 5, 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)

OPINION

1 UNITED STATES DISTRICT COURT 2 EASTERN DISTRICT OF CALIFORNIA 3 4
Minerva Garza, CASE NO. 1:22-cv00207-GSA 5 Plaintiff, 6 ORDER GRANTING MOTION
FOR ATTORNEY v. FEES PURSUANT TO 42 U.S.C. 406(b) 7 (Doc. 30) 8 Commissioner of
Social Security, 9 Defendant. 10 11 Plaintiff's counsel Jonathan O. Pena seeks an award of
attorney fees pursuant to 42 U.S.C. § 12 406(b).

13 I. Background 14 Plaintiff entered into a contingent fee agreement with counsel which provides
for attorney fees of 15 up to 25% of the past due benefits awarded. The agreement also provides
that counsel would seek fees 16 pursuant to the Equal Access to Justice Act (EAJA), fees which
would be refunded in the event of an 17 award of past due benefits and payment of the 25%
contingency fee.

18 Plaintiff filed a complaint in this Court on February 17, 2022, appealing the Commissioner's 19
decision denying his application for benefits. The matter was fully briefed and judgment was
entered for 20 Plaintiff. Doc. 19, 23, 27. Counsel was awarded EAJA fees in an amount of

\$7,000.00. Doc. 29. 21 On remand the agency determined that Plaintiff was disabled and entitled to past due benefits of 22 \$115,081.00 from which the agency withheld t \$28,770.25, (25%) for potential payment to counsel.

Id. 23 at 3. Counsel seeks the full 25% withheld. 24 II. Legal Standard 25 An attorney may seek an award of fees for representation of a Social Security claimant who is 26 awarded benefits: 27 Whenever a court renders a judgment favorable to a claimant under [42 USC § 401, et seq] who was represented before the court by an attorney, the court may determine and allow 1 of the total of the past-due benefits to which the claimant is entitled by reason of such judgment...

2 42 U.S.C. § 406(b)(1)(A); see also *Gisbrecht v. Barnhart*, 535 U.S. 789, 794 (2002) (Section 406(b) 3 controls fees awarded for representation of Social Security claimants). A contingency fee agreement is 4 unenforceable by the Court if it provides for fees exceeding the statutory amount. *Gisbrecht*, 535 U.S. at 5 807 (“Congress has provided one boundary line: Agreements are unenforceable to the extent that they 6 provide for fees exceeding 25 percent of the past-due benefits.”).

7 District courts “have been deferential to the terms of contingency fee contracts § 406(b) cases.” 8 *Hern v. Barnhart*, 262 F.Supp.2d 1033, 1037 (N.D. Cal. 2003). However, the Court must review 9 contingent-fee arrangements “as an independent check, to assure that they yield reasonable results in 10 particular cases.” *Gisbrecht*, 535 U.S. at 807.

In doing so, the Court should consider “the character of the 11 representation and the results the representative achieved.” *Id.* at 808. In addition, the Court should 12 consider whether the attorney performed in a substandard manner or engaged in dilatory conduct or 13 excessive delays, and whether the fees are “excessively large in relation to the benefits received.” 14 *Crawford v. Astrue*, 586 F.3d 1142, 1149 (9th Cir.

2009) (en banc); *Vazquez v. Com'r of Soc. Sec.*, No. 15 1:17-CV-1646-JLT, 2020 WL 2793059, at *2 (E.D. Cal. May 29, 2020). 16 III. Analysis 17 Here, Plaintiff was represented by experienced counsel and achieved a favorable result, namely an 18 order of remand, entry of judgment, and ultimately a substantial award of past due benefits. There is no 19 indication that counsel engaged in dilatory conduct, excessive delay, or substandard performance.

20 Counsel’s itemized bill reflects 32.8 hours of attorney time to review the administrative record and draft 21 a summary judgment motion, which is a reasonable time expenditure for the performance of those tasks. 22 Doc. 30-4. 23 The effective hourly rate amounts to \$877.14 per hour, which is substantial but within the upper 24 limit of reasonableness. See *Malta v. Comm'r of Soc.*

Sec., No. 1:18-CV-00415-CDB, 2024 WL 3618430, 25 at *3 (E.D. Cal. Aug. 1, 2024) (collecting cases and finding that “hourly rate of \$1,553.87 is within the 26 upper boundaries of

reasonableness.”); *Coder v. Comm’r of Soc. Sec.*, No. 1:20-cv-00497-CDB, 2024 WL 27 1742026, at *3 (E.D. Cal. Apr. 23, 2024) (reducing de facto hourly rate of \$3,532.87 to \$1,500.00 per 1 hour); *Reyna v. Comm’r of Soc.*

Sec., No. 1:22-CV-00484-SAB, 2024 WL 4453046, at *2 (E.D. Cal. Oct. 29, 2024) (approving de facto hourly rate of \$1,326.57 per hour); *Langston v. Saul*, No. 1:18-CV-00273-3 SKO, 2020 WL 4501941, at *3 (E.D. Cal. Aug. 5, 2020) (\$1,453.42 per hour). 4 This award would by no means amount to a windfall. Matters pursuant to section 406(b) the 5 lodestar is merely a guidepost, and a comparatively high effective hourly rate is generally warranted to 6 compensate counsel for the risk assumed in representing social security claimants.

See *Crawford v. Astrue*, 586 F.3d 1142, 1148 (9th Cir. 2009). 8 The \$28,770.25 total amount is also consistent with total contingent fee awards granted under 9 section 406(b). See, e.g., *Ortega v. Comm’r of Soc. Sec.*, No. 1:12-cv-01030-AWI-SAB, 2015 WL 10 5021646, at *3 (E.D. Cal. Aug. 21, 2015) (\$24,350); *Thomas v. Colvin*, No. 1:11-cv-01291-SKO, 2015 11 WL 1529331, at *3 (E.D.

Cal. Apr. 3, 2015) (\$44,603.50); *Boyle v. Colvin*, No. 1:12-cv-00954-SMS, 12 2013 WL 6712552, at *2 (E.D. Cal. Dec. 19, 2013) (\$20,577.57); *Jamieson v. Astrue*, No. 1:09-cv-00490-13 LJO-DLB, 2011 WL 587096, at *2 (E.D. Cal. Feb. 9, 2011) (\$34,500). 14 Considering the character of the representation, the result achieved, and the fee amounts awarded 15 in similar cases, the request here is reasonable.

16 Accordingly, it is ORDERED as follows: 17 1. Counsel’s motion for attorney fees pursuant to 42 U.S.C. 406(b) (Doc. 30) is granted. 18 2. The Commissioner shall certify a payment of a gross award in the amount of \$28,770.25 19 to: Jonathan O. Pena. 20 3. Upon receipt of this sum, Jonathan O. Pena shall remit directly to Plaintiff Minerva Garza 21 the EAJA fees previously awarded in the amount of \$7,000.00.

22 23 IT IS SO ORDERED. 24 Dated: July 1, 2025 /s/ Gary S. Austin 25 UNITED STATES MAGISTRATE JUDGE 26 27