

UNITED STATES DISTRICT COURT FOR THE DISTRICT OF NEW JERSEY

Mark Higginbotham v. Frank Bisignano, Commissioner of Social Security

No. 1:24-cv-04616, United States District Court for the District of New Jersey (December 31, 2025)

SUMMARY

The United States District Court for the District of New Jersey grants Plaintiff’s motion for attorney’s fees under 42 U.S.C. § 406(b)(1). The court awards counsel \$26,040.50, representing 25% of Plaintiff’s past-due Social Security benefits, and directs counsel to remit previously awarded EAJA fees of \$7,200.00 to Plaintiff.

CASE DETAILS

COURT	United States District Court for the District of New Jersey
WRITING FOR THE COURT	Norah McCann King
JURISDICTION	United States District Court for the District of New Jersey
DECIDED	December 31, 2025
DOCKET	1:24-cv-04616
DISPOSITION	other
PROCEDURAL POSTURE	Plaintiff moved under 42 U.S.C. § 406(b)(1) for approval of an attorney's fee equal to 25 percent of his past-due Social Security benefits after obtaining a favorable result on judicial review and remand.
PRECEDENTIAL VALUE	unpublished
PARTIES	Mark Higginbotham v. Frank Bisignano, Commissioner of Social Security

TOPICS

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

PRACTICE AREAS

- Social Security
- administrative law
- attorney fees
- civil procedure

QUESTIONS PRESENTED

1. Whether Plaintiff's counsel was entitled to a reasonable attorney's fee under 42 U.S.C. § 406(b)(1)(A) in the amount of 25 percent of Plaintiff's past-due benefits.
2. Whether counsel was required to remit the previously awarded \$7,200.00 in EAJA fees to Plaintiff upon receipt of the § 406(b) fee.

HOLDINGS

1. The requested fee of \$26,040.50, representing 25 percent of Plaintiff's past-due benefits, was reasonable and was approved.
2. Upon receipt of the § 406(b) fee, Plaintiff's counsel was directed to remit the previously awarded \$7,200.00 in EAJA fees to Plaintiff.

KEY QUOTATIONS

“Under the Social Security Act, when a court renders a judgment favorable to a claimant who was represented before the court by an attorney, the court may award that prevailing claimant’s attorney “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. . . .””

“IT IS ORDERED that an attorney’s fee in the amount of \$ 26,040.50, which represents 25% of the past-due benefits awarded to Plaintiff, be remitted to Timothy J. Mallo, Esq.”

“Upon receipt of this fee, counsel for Plaintiff is DIRECTED to remit the previously awarded EAJA fees in the amount of \$ 7,200.00 to Plaintiff.”

FACTUAL BACKGROUND

Mark Higginbotham applied for Disability Insurance Benefits and challenged the administrative denial with the assistance of counsel. The District Court reversed the Commissioner's decision and remanded the matter in August 2024. On remand, Higginbotham obtained a fully favorable decision and \$104,162.00 in past-due benefits. Counsel reported expending 29.3 hours and sought 25 percent of the past-due benefits, or \$26,040.50.

PROCEDURAL HISTORY

Plaintiff challenged the administrative denial of Disability Insurance Benefits in the District of New Jersey. In August 2024, the court adopted the parties' proposal, reversed the Commissioner's decision, and remanded for further proceedings. On remand, Plaintiff received a fully favorable decision and \$104,162.00 in past-due benefits. Plaintiff's counsel then sought \$26,040.50 under § 406(b)(1), and the court granted the motion while directing counsel to remit previously awarded EAJA fees of \$7,200.00 to Plaintiff.

DISPOSITION

other

REMAND INSTRUCTIONS

No new remand was ordered in this opinion. Counsel was directed, upon receipt of the approved \$26,040.50 fee, to remit the previously awarded \$7,200.00 in EAJA fees to Plaintiff.

CASES CITED

- *Gisbrecht v. Barnhart*, 535 U.S. 789, 807-08 (2002)
- *Tschudy v. Comm'r of Soc. Sec.*, No. 18-3424, 2020 WL 3316403, at *1 (D.N.J. June 18, 2020)

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