

UNITED STATES DISTRICT COURT FOR THE DISTRICT OF NEW JERSEY

Noel Jorgensen v. Frank Bisignano, Commissioner of Social Security

Jorgensen · No. 3:20-cv-15832 · Decided January 20, 2026

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)(A) following a favorable Social Security disability benefits decision on remand. The court awards Bryan Konoski, Esq. \$20,981.50, representing 25% of Plaintiff’s past-due benefits, and directs counsel to remit the previously awarded \$9,000.00 Equal Access to Justice Act fee to Plaintiff. The court finds the requested fee reasonable based on the contingency agreement, counsel’s time, the results achieved, and the absence of attorney-caused delay.

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	January 20, 2026
DOCKET	3:20-cv-15832
DISPOSITION	other
PROCEDURAL POSTURE	Plaintiff moved for an attorney's fee under 42 U.S.C. § 406(b)(1) after prevailing in judicial review of the denial of Social Security Disability Insurance benefits and obtaining past-due benefits on remand.
STANDARD OF REVIEW	The Court evaluated the requested fee for reasonableness under 42 U.S.C. § 406(b)(1)(A), considering the character of the representation, results achieved, counsel's responsibility for delay, the relationship between the benefits and time expended, and the risk inherent in contingency representation.
PRECEDENTIAL VALUE	Unknown; district court opinion addressing a fee motion under 42 U.S.C. § 406(b).
PARTIES	Noel Jorgensen 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

judicial review of agency action

QUESTIONS PRESENTED

1. Whether a fee of \$20,981.50, representing 25 percent of Plaintiff's past-due Social Security benefits, was reasonable and permissible under 42 U.S.C. § 406(b)(1)(A).
2. Whether counsel was required to remit the previously awarded \$9,000.00 Equal Access to Justice Act fee to Plaintiff upon receipt of the § 406(b) fee.

HOLDINGS

1. A fee of \$20,981.50, equal to 25 percent of Plaintiff's past-due benefits, was reasonable under 42 U.S.C. § 406(b)(1)(A).
2. Upon receipt of the § 406(b) fee, Plaintiff's counsel must remit the previously awarded \$9,000.00 EAJA fee to Plaintiff.

KEY QUOTATIONS

“Contingency fee arrangements are “the primary means by which fees are set for successfully representing Social Security benefits claimants in court.”” (Opinion and Order)

FACTUAL BACKGROUND

Plaintiff applied for Disability Insurance Benefits in 2017 and retained Bryan Konoski, Esq., to challenge the administrative denial in federal court. After remand, Plaintiff received a fully favorable decision and \$83,926.00 in past-due benefits. The fee agreement authorized 25 percent of past-due benefits, and counsel reported 76.7 hours spent representing Plaintiff before the Court.

PROCEDURAL HISTORY

Plaintiff challenged the administrative denial of his application for Disability Insurance Benefits in this Court. In March 2022, the Court reversed the Commissioner's decision and remanded for further proceedings. Plaintiff then obtained a fully favorable decision and \$83,926.00 in past-due benefits, from which \$20,981.50, representing 25 percent, was withheld for representative fees. The Court granted Plaintiff's motion for the § 406(b) fee and directed counsel to remit the previously awarded \$9,000.00 EAJA fee to Plaintiff.

DISPOSITION

other

REMAND INSTRUCTIONS

No new remand was ordered. Counsel was directed to remit the previously awarded \$9,000.00 EAJA fee to Plaintiff upon receipt of the \$20,981.50 § 406(b) fee.

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)

OPINION

UNITED STATES DISTRICT COURT DISTRICT OF NEW JERSEY NOEL JORGENSEN, Plaintiff, Case No. 3:20-cv-15832 v. Magistrate Judge Norah McCann King FRANK BISIGNANO, Commissioner of Social Security, Defendant. OPINION AND ORDER This matter is before the Court on the motion for an attorney's fee pursuant to 42 U.S.C. § 406(b)(1). Motion for Attorney Fees, ECF No. 24.

The Commissioner neither supports nor opposes the motion but asks that the Court direct Plaintiff's counsel to remit to Plaintiff the \$9,000.00 fee previously awarded under the Equal Access to Justice Act, 28 U.S.C. § 2412 ("EAJA"). Response to Motion for Attorney Fees, ECF No. 26. See Consent Order, ECF No. 23.

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...." 42 U.S.C. § 406(b)(1)(A).

Contingency fee arrangements are "the primary means by which fees are set for successfully representing Social Security benefits claimants in court." *Gisbrecht v. Barnhart*, 535 U.S. 789, 807 (2002). In determining an appropriate fee under the statute, a court must also consider such factors as the character of the representation and results achieved, whether counsel was responsible for delay, and whether the benefits were large in comparison to the time expended by counsel.

Id. at 807-08. Moreover, a court may consider the inherent risk of loss associated with representation on a contingency basis. *Tschudy v. Comm'r of Soc. Sec.*, No. 18-3424, 2020 WL 3316403, at *1 (D.N.J. June 18, 2020). Plaintiff filed an application for Disability Insurance Benefits in 2017 and, with the assistance of counsel, challenged the administrative denial of that application in this Court.

In March 2022, this Court reversed the Commissioner's decision and remanded the matter to the Commissioner for further proceedings. Opinion and Order, ECF No. 20; Final Judgment, ECF No. 21. On remand, Plaintiff secured a fully favorable decision, Exhibit A to Motion for Attorney Fees, ECF No. 24-1, and was awarded past-due benefits totaling \$ 83,926.00. *Id.* at PageID# 703.

Twenty-five percent of that award, \$ 20,981.50, has been withheld for payment to Plaintiff's representative. *Id.* 1 The fee agreement executed by Plaintiff and Plaintiff's counsel authorizes a

fee of 25% of past-due benefits. Exhibit B to Motion for Attorney Fees, ECF No. 24-1, PageID# 708. Bryan Konoski, Esq., Plaintiff's well-experienced counsel, represents that he expended 76.7 hours of time on behalf of Plaintiff before this Court.

Exhibit C to Motion for Attorney Fees, ECF No. 24- 1, PageID# 711. The available fee therefore represents no more than 25% of the past-due benefits and compensation for Plaintiff's attorney at the rate of approximately \$ 274.00 per hour. This Court concludes that a fee of \$20,981.50 is reasonable.

The time between the filing of Plaintiff's application and the favorable resolution of that application was lengthy and 1 In an apparent typographical error, Plaintiff represents that the available attorney fee is \$20,781.50. Motion for Attorney Fees, ECF No. 24, PageID# 692. Plaintiff's counsel was in no way responsible for that delay.

Moreover, the benefits awarded were not large in comparison to the time expended by counsel. See *Gisbrecht*, 535 U.S. at 808. Plaintiff's Motion for Attorney Fees, ECF No. 24, is therefore GRANTED. IT IS ORDERED that an attorney's fee in the amount of \$ 20,981.50, which represents 25% of the past-due benefits awarded to Plaintiff, be remitted to Bryan Konoski, Esq.

Upon receipt of this fee, counsel for Plaintiff is DIRECTED to remit the previously awarded EAJA fee in the amount of \$ 9,000.00 to Plaintiff. January 20, 2026 s/ Norah McCann King Norah McCann King United States Magistrate Judge