

UNITED STATES DISTRICT COURT FOR THE NORTHERN DISTRICT OF
NEW YORK

Misty G. v. Commissioner of Social Security

No. 3:18-CV-206 (MAD), United States District Court for the Northern District of New York (April 6, 2026)

SUMMARY

The United States District Court for the Northern District of New York grants counsel's motion for attorney's fees under 42 U.S.C. § 406(b) following successful Social Security disability proceedings and remand. The court awards \$55,972.25 from the claimant's past-due benefits and directs counsel to refund the previously received \$8,370 Equal Access to Justice Act award to the claimant. The court finds the requested fee reasonable and not an improper windfall.

CASE DETAILS

COURT	United States District Court for the Northern District of New York
WRITING FOR THE COURT	Mae A. D'Agostino
JURISDICTION	United States District Court for the Northern District of New York
DECIDED	April 6, 2026
DOCKET	3:18-CV-206 (MAD)
DISPOSITION	other
PROCEDURAL POSTURE	Plaintiff's attorney moved under 42 U.S.C. § 406(b)(1) for approval of attorney's fees from Plaintiff's past-due Social Security benefits after successful judicial and administrative remands.
STANDARD OF REVIEW	The Court reviewed the requested contingent fee for reasonableness, beginning with the fee agreement and considering whether the award was within the statutory cap, involved fraud or overreaching, constituted a windfall, reflected the character and results of representation, accounted for time spent and attorney-caused delay, and was consistent with normal noncontingent fees.
PRECEDENTIAL VALUE	unpublished, nonprecedential district court memorandum-decision and order
PARTIES	Misty G. v. Commissioner of Social Security

TOPICS

attorney fees

administrative law

judicial review of agency action

remedies

PRACTICE AREAS

Social Security

attorney's fees

administrative law

QUESTIONS PRESENTED

1. Whether counsel's requested \$55,972.25 contingent fee under 42 U.S.C. § 406(b)(1) was reasonable and within the statutory twenty-five-percent cap.
2. Whether the previously awarded \$8,370 in EAJA fees had to be refunded to Plaintiff after approval of the § 406(b) fee.

HOLDINGS

1. The requested \$55,972.25 fee was reasonable and did not constitute an impermissible windfall.
2. Upon receiving the § 406(b) award, counsel must immediately refund Plaintiff the previously received \$8,370 EAJA fee.

KEY QUOTATIONS

"The effect of § 406(b) is threefold: 'it fixes a maximum percentage for contingent fees of twenty-five percent; it permits recovery of such fees only out of past due benefits; and it requires court approval for whatever amount of fees should be paid.'" (III. DISCUSSION)

"The Second Circuit directs district courts to "approach fee determinations by looking first to the contingent-fee agreement, then testing it for reasonableness[.]'" (III. DISCUSSION)

"In determining whether there is a windfall that renders a § 406(b) fee in a particular case unreasonable, courts must consider more than the de facto hourly rate." (III. DISCUSSION)

FACTUAL BACKGROUND

Counsel represented Plaintiff through multiple judicial appeals and administrative proceedings, ultimately obtaining a favorable benefits determination. Plaintiff's past-due benefits totaled \$252,689, and the contingency agreement permitted counsel to seek twenty-five percent of that amount, subject to a \$7,200 limit for administrative-level work. Counsel sought \$55,972.25 under § 406(b), and reported 46.7 hours of attorney and paralegal work.

PROCEDURAL HISTORY

Plaintiff commenced the action seeking review of the denial of Social Security Disability Insurance and Supplemental Security Income benefits. The Court remanded the matter in 2018, later consolidated it with a related action, and in 2022 vacated a second unfavorable decision and remanded for further administrative proceedings. The Commissioner subsequently issued a favorable determination, the Court approved an \$8,370 Equal Access to Justice Act award, and counsel then sought \$55,972.25 under § 406(b).

DISPOSITION

other

CASES CITED

- Mileke W. v. Comm'r of Soc. Sec., No. 5:22-CV-1387, 2025 WL 1951822 (N.D.N.Y. July 16, 2025)
- Fields v. Kijakazi, 24 F.4th 845 (2d Cir. 2022)
- Wells v. Sullivan, 907 F.2d 367 (2d Cir. 1990)
- Gisbrecht v. Barnhart, 535 U.S. 789 (2002)
- Michael N. v. Comm'r of Soc. Sec., No. 5:23-CV-175, 2025 WL 1519316 (N.D.N.Y. May 28, 2025)
- BillyJo M. v. Comm'r of Soc. Sec., 568 F. Supp. 3d 309 (W.D.N.Y. 2021)
- Timothy G. v. Comm'r of Soc. Sec., No. 18-CV-9235, 2025 WL 486774 (S.D.N.Y. Feb. 12, 2025)