

**UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
FORT MYERS DIVISION**

JACQUELINE NICHE NANCE

v.

8:20-cv-507-NPM


COMMISSIONER OF SOCIAL SECURITY

ORDER

Having obtained an award of benefits, Jacqueline Nance requests a fee award under 42 U.S.C. § 406(b). (Doc. 45). Section 406(b) contemplates a reasonable fee award—not to exceed twenty-five percent of the claimant’s past-due benefits—for work performed before the court. For the reasons stated in Nance’s motion, the contingent fee of twenty-five percent is reasonable.

Accordingly, the unopposed fee motion (Doc. 45) is **GRANTED**, and the clerk is directed to amend the judgment in favor of Nance to include a fee award of \$25,470.06.¹ The fee award is to be paid out of Nance’s past-due benefits, subject to agency policy. If the withheld benefits in the Commissioner’s possession are insufficient to satisfy the amount of fees determined reasonable by the court, then the attorney must look to the claimant to recover the difference.

ORDERED on January 7, 2025



NICHOLAS P. MIZELL
United States Magistrate Judge

¹ Nance’s counsel previously retained fees awarded to Nance under the Equal Access to Justice Act (“EAJA”). (Docs. 42, 43, 45-1). Nance requests that the court subtract the EAJA fees from the award of § 406(b) fees, which she calculates to be \$24,720.06. While we heed Nance’s request, the court’s calculations reflect that twenty-five percent of past-due benefits ($\$135,035 \times 25\% = \$33,758.75$) less the EAJA award (\$8,288.69) is \$25,470.06. (Doc. 45-2).