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9 Attorneys for Plaintiff  
10 Christina Hernandez

11  
12 **UNITED STATES DISTRICT COURT**  
13 **EASTERN DISTRICT OF CALIFORNIA**  
14

15 CHRISTINA HERNANDEZ, ) Case No.: 1:09-CV-1805  
16 )  
17 Plaintiff, )  
18 ) STIPULATION AND ORDER FOR  
19 vs. ) THE AWARD AND PAYMENT OF  
20 MICHAEL J. ASTRUE, ) ATTORNEY FEES AND EXPENSES  
21 Commissioner of Social Security, ) PURSUANT TO THE EQUAL  
22 ) ACCESS TO JUSTICE ACT  
23 )  
24 Defendant. )  
25 )  
26 )

27 TO THE HONORABLE SHEILA K. OBERTO, MAGISTRATE JUDGE  
28 OF THE DISTRICT COURT:

29 IT IS HEREBY STIPULATED by and between the parties through their  
30 undersigned counsel, subject to the approval of the Court, that Christina Hernandez  
31 be awarded attorney fees and expenses in the amount of TWO THOUSAND FIVE  
32 HUNDRED dollars (\$2,500.00) under the Equal Access to Justice Act (EAJA), 28  
33 U.S.C. § 2412(d). This amount represents compensation for all legal services  
34 rendered on behalf of Plaintiff by counsel in connection with this civil action, in  
35 accordance with 28 U.S.C. §§ 1920; 2412(d).  
36

1           After the Court issues an order for EAJA fees to Christina Hernandez, the  
2 government will consider the matter of Christina Hernandez's assignment of EAJA  
3 fees to Laura E. Krank. Pursuant to *Astrue v. Ratliff*, \_\_\_ U.S. \_\_\_, 2010 WL  
4 2346547 (June 14, 2010), the ability to honor the assignment will depend on  
5 whether the fees are subject to any offset allowed under the United States  
6 Department of the Treasury's Offset Program. After the order for EAJA fees is  
7 entered, the government will determine whether they are subject to any offset.

8           Fees shall be made payable to Christina Hernandez, but if the Department  
9 of the Treasury determines that Christina Hernandez does not owe a federal debt,  
10 then the government shall cause the payment of fees, expenses and costs to be  
11 made directly to Law Offices of Rohlfing & Kalagian, LLP, pursuant to the  
12 assignment executed by Christina Hernandez. Any payments made shall be  
13 delivered to Laura E. Krank.

14           This stipulation constitutes a compromise settlement of Christina  
15 Hernandez's request for EAJA attorney fees, and does not constitute an admission  
16 of liability on the part of Defendant under the EAJA. Payment of the agreed  
17 amount shall constitute a complete release from, and bar to, any and all claims that  
18 Christina Hernandez and/or Laura E. Krank including Law Offices of Rohlfing &  
19 Kalagian, LLP may have relating to EAJA attorney fees in connection with this  
20 action.

21           Laura E. Krank reserves the right to contend that any non-payment caused  
22 by the collection of a federal debt owed by Christina Hernandez violates 31 C.F.R.  
23 § 285.5(e)(5) and *Morrison v. C.I.R.*, 565 F.3d 658, 667 (9th Cir. 2009). Nothing  
24 in this stipulation shall be construed as an admission by Laura E. Krank that the  
25 Government has the right or authority to offset the fees due and payable pursuant  
26 to this stipulation.

1 This award is without prejudice to the rights of Laura E. Krank and/or  
2 Rohlfing & Kalagian, LLP to seek Social Security Act attorney fees under 42  
3 U.S.C. § 406(b), subject to the savings clause provisions of the EAJA.

4  
5 DATE: February 9, 2011

Respectfully submitted,

6 ROHLFING & KALAGIAN, LLP

7 */s/ Laura E. Krank*

8 BY: \_\_\_\_\_

Laura E. Krank

Attorney for plaintiff Christina Hernandez

9  
10 DATED: February 22, 2011

BENJAMIN B. WAGNER

United States Attorney

11  
12 */s/ Daniel P. Talbert*

13 \_\_\_\_\_  
Daniel P. Talbert

14 Special Assistant United States Attorney  
15 Attorneys for Defendant Michael J. Astrue,  
16 Commissioner of Social Security  
(Per e-mail authorization)

17 **ORDER**

18 Pursuant to the parties' stipulation, IT IS ORDERED that Plaintiff be  
19 awarded attorney fees and expenses in the amount of \$2,500.00 under the Equal  
20 Access to Justice Act, 28 U.S.C. § 2412(d).

21  
22  
23 IT IS SO ORDERED.

24 Dated: **February 28, 2011**

**/s/ Sheila K. Oberto**

UNITED STATES MAGISTRATE JUDGE