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9 Attorneys for Plaintiff  
10 Pio Rodriguez

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

13 PIO RODRIGUEZ, ) Case No.: 1:10-cv-1255 GSA  
14 )  
15 Plaintiff, )  
16 )  
17 vs. )  
18 MICHAEL J. ASTRUE, )  
19 Commissioner of Social Security, )  
20 )  
21 Defendant. )  
22 )  
23 )  
24 )  
25 )  
26 )

27 TO THE HONORABLE GARY S. AUSTIN, MAGISTRATE JUDGE OF  
28 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 Pio Rodriguez be  
31 awarded attorney fees and expenses in the amount of THREE THOUSAND dollars  
32 (\$3,000.00) under the Equal Access to Justice Act (EAJA), 28 U.S.C. § 2412(d).  
33 This amount represents compensation for all legal services rendered on behalf of  
34 Plaintiff by counsel in connection with this civil action, in accordance with 28  
35 U.S.C. §§ 1920; 2412(d).  
36

1           After the Court issues an order for EAJA fees to Pio Rodriguez, the  
2 government will consider the matter of Pio Rodriguez's assignment of EAJA fees  
3 to Marc V. Kalagian. Pursuant to *Astrue v. Ratliff*, 130 S.Ct. 2521, 2252-2253  
4 (2010), the ability to honor the assignment will depend on whether the fees are  
5 subject to any offset allowed under the United States Department of the Treasury's  
6 Offset Program. After the order for EAJA fees is entered, the government will  
7 determine whether they are subject to any offset.

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

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

21           Marc V. Kalagian reserves the right to contend that any non-payment caused  
22 by the collection of a federal debt owed by Pio Rodriguez 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 in  
24 this stipulation shall be construed as an admission by Marc V. Kalagian 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 Marc V. Kalagian 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 DATE: April 5, 2012

Respectfully submitted,

ROHLFING & KALAGIAN, LLP

*/s/ Marc V. Kalagian*

6 BY: \_\_\_\_\_

7 Marc V. Kalagian

Attorney for plaintiff Pio Rodriguez

8  
9 DATED: April 5, 2012

BENJAMIN B. WAGNER

United States Attorney

*/s/ Kathryn R. Watson*

13 \_\_\_\_\_  
Kathryn R. Watson

Special Assistant United States Attorney

14 Attorneys for Defendant Michael J. Astrue,

Commissioner of Social Security

15 (Per e-mail authorization)

16  
17 **ORDER**

18  
19 IT IS SO ORDERED.

20  
21 Dated: April 6, 2012

/s/ Gary S. Austin

UNITED STATES MAGISTRATE JUDGE