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5 Attorneys for Plaintiff
6 Joanalee J. Peterson

7 **UNITED STATES DISTRICT COURT**
8 **EASTERN DISTRICT OF CALIFORNIA**
9

10 JOANALEE J. PETERSON,) Case No.: CV 10-1566 DLB
11)
12 Plaintiff,) STIPULATION FOR THE AWARD
13 vs.) AND PAYMENT OF ATTORNEY
14 MICHAEL J. ASTRUE,) FEES AND EXPENSES PURSUANT
Commissioner of Social Security,) TO THE EQUAL ACCESS TO
15 Defendant.) JUSTICE ACT, 28 U.S.C. § 2412(d)
16)

17 TO THE HONORABLE DENNIS L. BECK, MAGISTRATE JUDGE OF
18 THE DISTRICT COURT:

19 IT IS HEREBY STIPULATED by and between the parties through their
20 undersigned counsel, subject to the approval of the Court, that Joanalee J. Peterson
21 be awarded attorney fees and expenses in the amount of TWO THOUSAND SIX
22 HUNDRED dollars (\$2,600.00) under the Equal Access to Justice Act (EAJA), 28
23 U.S.C. § 2412(d). This amount represents compensation for all legal services
24 rendered on behalf of Plaintiff by counsel in connection with this civil action, in
25 accordance with 28 U.S.C. §§ 1920; 2412(d).
26

1 After the Court issues an order for EAJA fees to Joanalee J. Peterson, the
2 government will consider the matter of Joanalee J. Peterson's assignment of EAJA
3 fees 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 Joanalee J. Peterson, but if the Department of
9 the Treasury determines that Joanalee J. Peterson does not owe a federal debt, then
10 the 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 Joanalee J. Peterson. Any payments made shall be delivered to Marc
13 V. Kalagian.

14 This stipulation constitutes a compromise settlement of Joanalee J.
15 Peterson's request for EAJA attorney fees, and does not constitute an admission of
16 liability on the part of Defendant under the EAJA. Payment of the agreed amount
17 shall constitute a complete release from, and bar to, any and all claims that
18 Joanalee J. Peterson 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 Joanalee J. Peterson 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 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: August 1, 2011

Respectfully submitted,

ROHLFING & KALAGIAN, LLP

/s/ Marc V. Kalagian

BY: _____
Marc V. Kalagian
Attorney for plaintiff Joanalee J. Peterson

9 DATED: August 1, 2011

BENJAMIN B. WAGNER
United States Attorney

/s/ Francesco Benavides

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

16 IT IS SO ORDERED.

17 Dated: August 8, 2011

/s/ Dennis L. Beck
UNITED STATES MAGISTRATE JUDGE

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