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|  |  |   |  |  |
| 1  | Laura E. Krank   |   |  |  |
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| 6  | Attorneys for Plaintiff Esteban Vargas   |   |  |  |
| 7  | UNITED STATES DISTRICT COURT EASTERN DISTRICT OF CALIFORNIA  |   |  |  |
| 8  |  |   |  |  |
| 9  |  |   |  |  |
| 10                                       | ESTEBAN VARGAS,  | Case No.: 1:10-cv2086 SKO   |  |  |
| 11                                       |  |   |  |  |
| 12                                       | Plaintiff,   | STIPULATION AND ORDER FOR AWARD AND PAYMENT OF                                  |  |  |
| 13                                       | VS.  | ATTORNEY FEES AND EXPENSES PURSUANT TO THE EQUAL                                |  |  |
| 14                                       | MICHAEL J. ASTRUE,<br>Commissioner of Social Security,   | ACCESS TO JUSTICE ACT, 28 U.S.C. § 2412(d)                                      |  |  |
| 15                                       | Defendant.   |   |  |  |
| 16                                       |  |   |  |  |
| 17                                       |  |   |  |  |
| 18                                       | TO THE HONORABLE SHEILA K. OBERTO, MAGISTRATE JUDGE OF THE DISTRICT COURT:   |   |  |  |
| 19                                       |  |   |  |  |
| 20                                       | IT IS HEREBY STIPULATED by and between the parties through their   |   |  |  |
| 21                                       | undersigned counsel, subject to the approval of the Court, that Esteban Vargas be  |   |  |  |
| 22                                       | awarded attorney fees and expenses in the amount of NINE HUNDRED FIFTY   |   |  |  |
| 23                                       | dollars (\$950.00) under the Equal Access to Justice Act (EAJA), 28 U.S.C. §   |   |  |  |
| $\begin{bmatrix} 23 \\ 24 \end{bmatrix}$ | 2412(d). This amount represents compensation for all legal services rendered on  |   |  |  |
| 25                                       | behalf of Plaintiff by counsel in connection   | alf of Plaintiff by counsel in connection with this civil action, in accordance |  |  |
| 26                                       | with 28 U.S.C. §§ 1920; 2412(d).   |   |  |  |
| 20                                       |  |   |  |  |

After the Court issues an order for EAJA fees to Esteban Vargas, the government will consider the matter of Esteban Vargas's assignment of EAJA fees to Laura E. Krank. Pursuant to *Astrue v. Ratliff*, 130 S.Ct. 2521, 2252-2253 (2010), the ability to honor the assignment will depend on whether the fees are subject to any offset allowed under the United States Department of the Treasury's Offset Program. After the order for EAJA fees is entered, the government will determine whether they are subject to any offset.

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

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

Laura E. Krank reserves the right to contend that any non-payment caused by the collection of a federal debt owed by Esteban Vargas violates 31 C.F.R. § 285.5(e)(5) and *Morrison v. C.I.R.*, 565 F.3d 658, 667 (9th Cir. 2009). Nothing in this stipulation shall be construed as an admission by Laura E. Krank that the Government has the right or authority to offset the fees due and payable pursuant 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                                     | U.S.C. § 406(b), subject to the savings clause provisions of the EAJA. |  |
| 4  | 4 DATE: May 24, 2011 Respec   | tfully submitted,  |  |
| 5  | 5 ROHLI   | FING & KALAGIAN, LLP   |  |
| 6  | 5   | s/ Laura E. Krank  |  |
| 7  |   | E. Krank   |  |
| 8  | 8 Attorne   | y for plaintiff Esteban Vargas   |  |
| 9  | RENIAMIN R WAGNER   |  |  |
| 10 |   |  |  |
| 11 |   | ·  |  |
| 12 | Lynn M. Harada  Special Assistant United States Attorney                    |  |  |
| 13 |   |  |  |
| 14 | 4    Attorne  | ys for Defendant Michael J. Astrue, ssioner of Social Security         |  |
| 15 |   | nail authorization)  |  |
| 16 | 6   |  |  |
| 17 | 7 ORDE  | R  |  |
| 18 | 8 IT IS SO ORDERED.   |  |  |
| 19 | $\Theta \parallel$  |  |  |
| 20 | Dated: <b>June 30, 2011</b>   | <u>/s/ Sheila K. Oberto</u><br>UNITED STATES MAGISTRATE JUDGE          |  |
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| 22 | $_{2}\parallel$   |  |  |
| 23 | 3   |  |  |
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| 25 |   |  |  |
| 26 |   |  |  |
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