

1 ANN M. CERNEY, SBN: 068748
2 Cerney Kreuze & Lott, LLP
3 42 N. Sutter Street, Suite 400
4 Stockton, California 95202
5 Telephone: (209) 948-9384
6 Facsimile: (209) 948-0706
7

8 UNITED STATES DISTRICT COURT

9 EASTERN DISTRICT OF CALIFORNIA, FRESNO BRANCH

10 JOANNA BARBOSA,
11 Plaintiff,

Case No.: 1:13-CV-00410-GSA

12 vs.

13 CAROLYN W. COLVIN,
14 Acting Commissioner of Social Security,

STIPULATION AND ORDER
FOR THE AWARD OF ATTORNEY FEES
PURSUANT TO THE EQUAL ACCESS TO
JUSTICE ACT, 28 U.S.C. § 2412(d)

15 Defendant
16

17
18 IT IS HEREBY STIPULATED by and between the parties through their undersigned
19 counsel, subject to the approval of the Court, that Plaintiff be awarded attorney fees under the
20 EAJA in the amount of SIX THOUSAND ONE HUNDRED (\$6,100.00) and costs in the amount
21 of THREE HUNDRED SEVENTY-FIVE AND TWENTY-FOUR (\$375.24).¹ This amount
22 represents compensation for all legal services rendered on behalf of Plaintiff, to date, by counsel
23 in connection with this civil action, in accordance with 28 U.S.C. § 2412.
24

25 _____
26

27
28 ¹ These costs have already been awarded by the Court in an order on October 27,
2014.

1 After the Court issues an order for EAJA fees and expenses to Plaintiff, the government
2 will consider the matter of Plaintiff's assignment of EAJA fees and expenses to Plaintiff's
3 attorney. Pursuant to Astrue v. Ratliff, 130 S.Ct. 2521 (2010), the ability to honor the
4 assignment will depend on whether the fees and expenses are subject to any offset allowed under
5 the United States Department of the Treasury's Offset Program. After the order for EAJA fees
6 and expenses is entered, the government will determine whether they are subject to any offset.
7 Fees and expenses shall be made payable to Plaintiff, but if the Department of the Treasury
8 determines that Plaintiff does not owe a federal debt, then the government shall cause the
9 payment of fees, expenses and costs to be made directly to Ann M. Cerney, pursuant to the
10 assignment executed by Plaintiff. Any payments made shall be delivered to Plaintiff's counsel.
11
12

13 This stipulation constitutes a compromise settlement of Plaintiff's request for EAJA
14 attorney fees and expenses, and does not constitute an admission of liability on the part of
15 Defendant under the EAJA. Payment of the agreed amount shall constitute a complete release
16 from, and bar to, any and all claims that Plaintiff and/or Plaintiff's counsel may have relating to
17 EAJA attorney fees and expenses in connection with this action.
18

19 This award is without prejudice to the rights of Plaintiff's counsel to seek Social Security
20 Act attorney fees under 42 U.S.C. § 406, subject to the offset provisions of the EAJA.
21

22 Respectfully submitted,

23 Dated: December 16, 2014

/s/ Ann M. Cerney

ANN M. CERNEY
Attorney for Plaintiff

24
25
26 BENJAMIN B. WAGNER
United States Attorney
27 DONNA L. CALVERT
Regional Chief Counsel
28

1
2 Date: December 16, 2014

/s/ Susan L. Smith
(As authorized via email on _____)
Special Assistant United States Attorney

3
4
5 **ORDER**

6 Pursuant to the parties' stipulation set forth above, it is hereby ordered that Plaintiff shall
7 be awarded attorney fees in the amount of \$6,100.00 and expenses in the amount of \$375.24,
8 under the Equal Access to Justice Act, 28 U.S.C. § 2412(d). The attorney fees and expenses
9 hereby awarded shall be paid in accordance with the terms of the parties' stipulation.
10

11
12
13 IT IS SO ORDERED.

14 Dated: December 17, 2014

15 /s/ Gary S. Austin

16 UNITED STATES MAGISTRATE JUDGE
17
18
19
20
21
22
23
24
25
26
27
28