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9 Attorneys for Plaintiff
10 MARIA HERNANDEZ, as the heir
11 and representative of the estate of
12 ROBERTO HERNANDEZ

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

15 MARIA HERNANDEZ, as the heir and) 16 representative of the estate of) 17 ROBERTO HERNANDEZ,) 18 Plaintiff,) 19 vs.) 20 CAROLYN W. COLVIN, Acting) 21 Commissioner of Social Security,) 22 Defendant.)	23 Case No.: 1:13-cv-01373-GSA 24 STIPULATION AND ORDER FOR 25 THE AWARD AND PAYMENT OF 26 ATTORNEY FEES AND EXPENSES PURSUANT TO THE EQUAL ACCESS TO JUSTICE ACT, 28 U.S.C. § 2412(d) AND COSTS PURSUANT TO 28 U.S.C. § 1920
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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 Maria Hernandez be
31 awarded attorney fees and expenses in the amount of four thousand dollars
32 (\$4,000.00) 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

1 Plaintiff by counsel in connection with this civil action, in accordance with 28
2 U.S.C. §§ 1920; 2412(d).

3 After the Court issues an order for EAJA fees to Maria Hernandez, the
4 government will consider the matter of Maria Hernandez's assignment of EAJA
5 fees to Young Cho. Pursuant to *Astrue v. Ratliff*, 130 S.Ct. 2521, 2529 (2010), the
6 ability to honor the assignment will depend on whether the fees are subject to any
7 offset allowed under the United States Department of the Treasury's Offset
8 Program. After the order for EAJA fees is entered, the government will determine
9 whether they are subject to any offset.

10 Fees shall be made payable to Maria Hernandez, but if the Department of
11 the Treasury determines that Maria Hernandez does not owe a federal debt, then
12 the government shall cause the payment of fees, expenses and costs to be made
13 directly to Law Offices of Lawrence D. Rohlfing, pursuant to the assignment
14 executed by Maria Hernandez. *United States v. \$186,416.00*, 722 F.3d 1173, 1176
15 (9th Cir. 2013) (*\$186,416.00 II*) (ordering fees paid to counsel because of an
16 assignment that did not interfere with a raised superior lien).¹ Any payments made
17 shall be delivered to Young Cho.

18 ¹ The Commissioner does not stipulate to the citation of *\$186,416.00 II*, and will
19 not participate in representing to this Court that it carries legal import in these
20 proceedings. *\$186,416 II* involved a different statute and very different factual
21 circumstances than those presented here, or in other Social Security cases.
22 Because the parties have agreed to the payment of EAJA fees, and the amount, and
23 to avoid motion practice solely related to Plaintiff's citation, the Commissioner
24 agrees to this stipulation. The Commissioner reserves the right to challenge the
25 applicability of *\$186,416 II* to any Social Security case, and this Stipulation should
26 not be construed as a waiver of such reservation.

Maria Hernandez contends that *U.S. v. \$186,416.00 in U.S. Currency*, 642 F.3d
753, 757 (9th Cir. 2011) (*\$186,416.00 I*) held that there is no functional difference
between the CAFRA and EAJA in terms of "ownership" of the fee.

1 This stipulation constitutes a compromise settlement of Maria Hernandez's
2 request for EAJA attorney fees, and does not constitute an admission of liability on
3 the part of Defendant under the EAJA or otherwise. Payment of the agreed amount
4 shall constitute a complete release from, and bar to, any and all claims that Maria
5 Hernandez and/or Young Cho including Law Offices of Lawrence D. Rohlring
6 may have relating to EAJA attorney fees in connection with this action.

7 This award is without prejudice to the rights of Young Cho and/or the Law
8 Offices of Lawrence D. Rohlring to seek Social Security Act attorney fees under
9 42 U.S.C. § 406(b), subject to the savings clause provisions of the EAJA.

10 DATE: June 3, 2015

Respectfully submitted,

11 LAW OFFICES OF LAWRENCE D. ROHLRING

12 */s/ Young Cho*

13 BY: _____

Young Cho

14 Attorney for plaintiff Roberto Hernandez

15 DATE: June 3, 2015

BENJAMIN B. WAGNER

16 Acting United States Attorney

17 */s/ Theophous H. Reagans*

18 _____
Theophous H. Reagans

19 Special Assistant United States Attorney
20 Attorneys for Defendant Carolyn W. Colvin,
Acting Commissioner of Social Security
(Per e-mail authorization)

ORDER

Pursuant to the above stipulation between the parties, the Plaintiff shall be awarded attorney fees and expenses in the amount of four thousand dollars (\$4,000.00) under the Equal Access to Justice Act, 28 U.S.C. § 2412(d). This award is subject to the terms of the above-referenced stipulation and payments shall be made pursuant to *Astrue v. Ratliff*, 130 S.Ct. 2521, 2529 (2010), as outlined above.

IT IS SO ORDERED.

Dated: June 5, 2015

/s/ Gary S. Austin
UNITED STATES MAGISTRATE JUDGE

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