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3 **UNITED STATES DISTRICT COURT**
4 **EASTERN DISTRICT OF CALIFORNIA**

5 STEVEN EDWARD FELIPE,

6 Plaintiff,

7 vs.

8 CAROLYN W. COLVIN, Acting
9 Commissioner of Social Security,

10 Defendant.
11

) Case No.: 1:13-cv-01744-SKO
)

) **STIPULATION AND ORDER FOR**
) **THE AWARD AND PAYMENT OF**
) **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**
)
)

12 TO THE HONORABLE SHEILA K. OBERTO, MAGISTRATE JUDGE
13 OF THE DISTRICT COURT:

14 IT IS HEREBY STIPULATED, by and between the parties through their
15 undersigned counsel, subject to the approval of the Court, that Steven Felipe be
16 awarded attorney fees and expenses in the amount of three thousand four hundred
17 dollars (\$3,400.00) under the Equal Access to Justice Act (EAJA), 28 U.S.C. §
18 2412(d). This amount represents compensation for all legal services rendered on
19 behalf of Plaintiff by counsel in connection with this civil action, in accordance
20 with 28 U.S.C. §§ 1920; 2412(d).

21 After the Court issues an order for EAJA fees to Steven Felipe, the
22 government will consider the matter of Steven Felipe's assignment of EAJA fees to
23 Young Cho. Pursuant to *Astrue v. Ratliff*, 130 S.Ct. 2521, 2529 (2010), the ability
24 to honor the assignment will depend on whether the fees are subject to any offset
25 allowed under the United States Department of the Treasury's Offset
26

1 Program. After the order for EAJA fees is entered, the government will determine
2 whether they are subject to any offset.

3 Fees shall be made payable to Steven Felipe, but if the Department of the
4 Treasury determines that Steven Felipe does not owe a federal debt, then the
5 government shall cause the payment of fees, expenses and costs to be made
6 directly to Law Offices of Lawrence D. Rohlifing, pursuant to the assignment
7 executed by Steven Edward Felipe. *United States v. \$186,416.00*, 722 F.3d 1173,
8 1176 (9th Cir. 2013) (*\$186,416.00 II*) (ordering fees paid to counsel because of an
9 assignment that did not interfere with a raised superior lien).¹ Any payments made
10 shall be delivered to Young Cho.

11 This stipulation constitutes a compromise settlement of Steven Felipe's
12 request for EAJA attorney fees, and does not constitute an admission of liability on
13 the part of Defendant under the EAJA or otherwise. Payment of the agreed amount
14 shall constitute a complete release from, and bar to, any and all claims that Steven
15 Edward Felipe and/or Young Cho including Law Offices of Lawrence D. Rohlifing
16 may have relating to EAJA attorney fees in connection with this action.

17
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.

27 Steven Felipe contends that *U.S. v. \$186,416.00 in U.S. Currency*, 642 F.3d 753,
28 757 (9th Cir. 2011) (*\$186,416.00 I*) held that there is no functional difference
29 between the CAFRA and EAJA in terms of "ownership" of the fee.

1 This award is without prejudice to the rights of Young Cho and/or the Law
2 Offices of Lawrence D. Rohlring to seek Social Security Act attorney fees under
3 42 U.S.C. § 406(b), subject to the savings clause provisions of the EAJA.

4 DATE: March 12, 2015

Respectfully submitted,

5 LAW OFFICES OF LAWRENCE D. ROHLRING

6 */s/ Young Cho*

7 BY: _____

Young Cho

8 Attorney for plaintiff Steven Edward Felipe

9 DATE: March 12, 2015

BENJAMIN B. WAGNER

10 United States Attorney

11 */s/ Jean M. Turk*

12 _____
Jean M. Turk

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

15
16 **ORDER**

17 Pursuant to the terms of the parties' stipulation, IT IS HEREBY ORDERED
18 that Plaintiff is awarded attorney's fees and expenses in the amount of \$3,400.00
19 under the EAJA.

20
21 IT IS SO ORDERED.

22 Dated: **March 16, 2015**

/s/ Sheila K. Oberto

23 UNITED STATES MAGISTRATE JUDGE