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5 Attorneys for Plaintiff  
 Alexander Sierra

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 7 **UNITED STATES DISTRICT COURT**  
 8 **EASTERN DISTRICT OF CALIFORNIA**  
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<p>10 ALEXANDER SIERRA,</p> <p>11          Plaintiff,</p> <p>12          vs.</p> <p>13 CAROLYN W. COLVIN, Acting          Commissioner of Social Security,</p> <p>14          Defendant.</p>	<p>) Case No.: 1:14-CV-00081-SMS</p> <p>)</p> <p>) STIPULATION FOR THE AWARD</p> <p>) AND PAYMENT OF ATTORNEY</p> <p>) FEES AND EXPENSES PURSUANT</p> <p>) TO THE EQUAL ACCESS TO</p> <p>) JUSTICE ACT, 28 U.S.C. § 2412(d)</p> <p>) AND COSTS PURSUANT TO 28</p> <p>) U.S.C. § 1920 AND ORDER</p> <p>) THEREON</p>
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 18 TO THE HONORABLE SANDRA M. SNYDER, MAGISTRATE JUDGE  
 19 OF THE DISTRICT COURT:

20 IT IS HEREBY STIPULATED by and between the parties through their  
 21 undersigned counsel, subject to the approval of the Court, that Alexander Sierra be  
 22 awarded attorney fees and expenses in the amount of ONE THOUSAND FOUR  
 23 HUNDRED dollars (\$1,400) under the Equal Access to Justice Act (EAJA), 28  
 24 U.S.C. § 2412(d),. This amount represents compensation for all legal services  
 25 rendered on behalf of Plaintiff by counsel in connection with this civil action, in  
 26 accordance with 28 U.S.C. §§ 1920; 2412(d).

1           After the Court issues an order for EAJA fees to Alexander Sierra, the  
2 government will consider the matter of Alexander Sierra's assignment of EAJA  
3 fees to Brian C. Shapiro. Pursuant to *Astrue v. Ratliff*, 130 S.Ct. 2521, 2529  
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 Alexander Sierra, but if the Department of  
9 the Treasury determines that Alexander Sierra does not owe a federal debt, then the  
10 government shall cause the payment of fees, expenses and costs to be made  
11 directly to Law Offices of Lawrence D. Rohlfig, pursuant to the assignment  
12 executed by Alexander Sierra. *United States v. \$186,416.00*, 722 F.3d 1173, 1176  
13 (9th Cir. 2013) (*\$186,416.00 II*) (ordering fees paid to counsel because of an  
14 assignment that did not interfere with a raised superior lien).<sup>1</sup> Any payments made  
15 shall be delivered to Brian C. Shapiro.

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18 <sup>1</sup> 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.

Alexander Sierra 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 Alexander Sierra'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  
5 Alexander Sierra and/or Brian C. Shapiro including Law Offices of Lawrence D.  
6 Rohlfing may have relating to EAJA attorney fees in connection with this action.

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

10 DATE: August 14, 2014 Respectfully submitted,

11 LAW OFFICES OF LAWRENCE D. ROHLFING

12 */s/ Brian C. Shapiro*

13 BY: \_\_\_\_\_

14 Brian C. Shapiro  
Attorney for plaintiff Alexander Sierra

15 DATED: August 26, 2014

16 BENJAMIN B. WAGNER  
United States Attorney

17 */s/ Paul Sachelari*

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



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**CERTIFICATE OF SERVICE  
FOR CASE NUMBER 1:14-CV-00081-SMS**

I hereby certify that I electronically filed the foregoing with the Clerk of the Court for this court by using the CM/ECF system on September 2, 2014.

I certify that all participants in the case are registered CM/ECF users and that service will be accomplished by the CM/ECF system, except the plaintiff served herewith by mail.

*/s/ Brian C. Shapiro*

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Brian C. Shapiro  
Attorneys for Plaintiff