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9 Attorneys for Plaintiff
10 Estela Love

11 **UNITED STATES DISTRICT COURT**
12 **EASTERN DISTRICT OF CALIFORNIA**

13 ESTELA LOVE,)	Case No.: 1:14-cv-01802-BAM
)	
14 Plaintiff,)	STIPULATION AND ORDER FOR
)	THE AWARD AND PAYMENT OF
15 vs.)	ATTORNEY FEES AND EXPENSES
)	PURSUANT TO THE EQUAL
16 CAROLYN W. COLVIN, Acting)	ACCESS TO JUSTICE ACT, 28 U.S.C.
17 Commissioner of Social Security,)	§ 2412(d) AND COSTS PURSUANT
)	TO 28 U.S.C. § 1920
18 Defendant.)	

19
20 TO THE HONORABLE BARBARA A. MCAULIFFE, MAGISTRATE
21 JUDGE OF THE UNITED STATES DISTRICT COURT:

22 IT IS HEREBY STIPULATED, by and between the parties through their
23 undersigned counsel, subject to the approval of the Court, that Estela Love be
24 awarded attorney fees in the amount of three thousand eight hundred dollars
25 (\$3,800.00) under the Equal Access to Justice Act (EAJA), 28 U.S.C. § 2412(d).
26 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 Estela Love, the
4 government will consider the matter of Estela Love's assignment of EAJA fees to
5 Young Cho. Pursuant to *Astrue v. Ratliff*, 130 S.Ct. 2521, 2529 (2010), the ability
6 to honor the assignment will depend on whether the fees are subject to any offset
7 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 Estela Love, but if the Department of the
11 Treasury determines that Estela Love does not owe a federal debt, then the
12 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 Estela Love. *United States v. \$186,416.00*, 722 F.3d 1173, 1176 (9th
15 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 _____
19 ¹ The Commissioner does not stipulate to the citation of *\$186,416.00 II*, and will
20 not participate in representing to this Court that it carries legal import in these
21 proceedings. *\$186,416 II* involved a different statute and very different factual
22 circumstances than those presented here, or in other Social Security cases.
23 Because the parties have agreed to the payment of EAJA fees, and the amount, and
24 to avoid motion practice solely related to Plaintiff's citation, the Commissioner
25 agrees to this stipulation. The Commissioner reserves the right to challenge the
26 applicability of *\$186,416 II* to any Social Security case, and this Stipulation should
not be construed as a waiver of such reservation.

25 Estela Love contends that *U.S. v. \$186,416.00 in U.S. Currency*, 642 F.3d 753, 757
26 (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. *U.S. v. Kim*, 797 F.3d

1 This stipulation constitutes a compromise settlement of Estela Love'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 Estela
5 Love and/or Young Cho including Law Offices of Lawrence D. Rohlfing may have
6 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. Rohlfing 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: April 20, 2016

Respectfully submitted,

11 LAW OFFICES OF LAWRENCE D. ROHLFING

12 */s/ Young Cho*

13 BY: _____

Young Cho
Attorney for plaintiff Estela Love

14
15 DATE: April 20, 2016

BENJAMIN B. WAGNER
United States Attorney

16
17 */s/ Ben A. Porter*

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

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25 696, 699 (9th Cir. 2015) holds that the Anti-Assignment Act invalidates an
26 assignment but does not preclude the attorney from gaining an interest in the fees.

ORDER

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Based upon the parties’ stipulation for the award of attorney fees pursuant to the Equal Access to Justice Act filed on April 20, 2016 (“Stipulation”), IT IS HEREBY ORDERED that fees in the amount of three thousand eight hundred dollars (\$3,800.00), as authorized by 28 U.S.C. § 2412, be awarded subject to the terms of the Stipulation.

IT IS SO ORDERED.

Dated: April 20, 2016

/s/ Barbara A. McAuliffe
UNITED STATES MAGISTRATE JUDGE

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PROOF OF SERVICE

STATE OF CALIFORNIA, COUNTY OF LOS ANGELES

I am employed in the county of Los Angeles, State of California. I am over the age of 18 and not a party to the within action. My business address is 12631 East Imperial Highway, Suite C-115, Santa Fe Springs, California 90670.

On this day of April 20, 2016, I served the foregoing document described as STIPULATION 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 on the interested parties in this action by placing a true copy thereof enclosed in a sealed envelope addressed as follows:

Ms. Estela Love
235 W. Hawes Ave.
Fresno, CA 93706

I caused such envelope with postage thereon fully prepaid to be placed in the United States mail at Santa Fe Springs, California.

I declare under penalty of perjury under the laws of the State of California that the above is true and correct.

I declare that I am employed in the office of a member of this court at whose direction the service was made.

Young Cho _____

/s/ Young Cho _____

TYPE OR PRINT NAME

SIGNATURE