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Attorneys for Plaintiff  
Destiny Rose

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

DESTINY ROSE,	)	Case No.: 1:14-cv-02007-GSA
	)	
Plaintiff,	)	STIPULATION AND ORDER FOR
	)	THE AWARD AND PAYMENT OF
vs.	)	ATTORNEY FEES AND EXPENSES
	)	PURSUANT TO THE EQUAL
CAROLYN W. COLVIN, Acting	)	ACCESS TO JUSTICE ACT, 28 U.S.C.
Commissioner of Social Security,	)	§ 2412(d) AND COSTS PURSUANT
	)	TO 28 U.S.C. § 1920
Defendant.	)	
	)	
	)	

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TO THE HONORABLE GARY S. AUSTIN, MAGISTRATE JUDGE OF  
THE DISTRICT COURT:

IT IS HEREBY STIPULATED by and between the parties through their undersigned counsel, subject to the approval of the Court, that Destiny Rose be awarded attorney fees and expenses in the amount of one thousand seven hundred dollars (\$1,700.00) under the Equal Access to Justice Act (EAJA), 28 U.S.C. § 2412(d). This amount represents compensation for all legal services rendered on

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

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

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

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

Destiny Rose 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.

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

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

DATE: September 28, 2015      Respectfully submitted,

LAW OFFICES OF LAWRENCE D. ROHLRING

*/s/ Young Cho*

BY: \_\_\_\_\_  
Young Cho  
Attorney for plaintiff Destiny Rose

DATE: September 28, 2015      BENJAMIN B. WAGNER  
United States Attorney

*/s/ Richard Rodriguez*

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Richard Rodriguez  
Special Assistant United States Attorney  
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 one thousand seven hundred dollars (\$1,700.00) 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: September 29, 2015

/s/ Gary S. Austin  
UNITED STATES MAGISTRATE JUDGE