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5 Attorneys for Plaintiff
6 Annette Russell

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

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12 ANNETTE RUSSELL,) Case No.: 1:15-cv-00473-BAM
13 Plaintiff,)
14 vs.) STIPULATION AND ORDER FOR
15 NANCY A. BERRYHILL¹, Acting) THE AWARD AND PAYMENT OF
Commissioner of Social Security,) ATTORNEY FEES AND EXPENSES
16 Defendant.) PURSUANT TO THE EQUAL
17) ACCESS TO JUSTICE ACT, 28 U.S.C.
18) § 2412(d) AND COSTS PURSUANT
19) TO 28 U.S.C. § 1920
20)
21)
22)
23)

24 TO THE HONORABLE BARBARA A. MCAULIFFE, MAGISTRATE
25 JUDGE OF THE UNITED STATES DISTRICT COURT:

26 IT IS HEREBY STIPULATED, by and between the parties through their
undersigned counsel, subject to the approval of the Court, that Annette Russell be

¹ Nancy A. Berryhill is now the Acting Commissioner of Social Security. Pursuant to Rule 25(d) of the F.R.C.P., Nancy A. Berryhill should be substituted for Acting Commissioner Carolyn W. Colvin as the defendant in this suit. No further action needs to be taken to continue this suit based on the last sentence of section 205(g) of the Social Security Act, 42 U.S.C. § 405(g).

1 awarded attorney fees in the amount of four thousand nine hundred dollars
2 (\$4,900.00) under the Equal Access to Justice Act (EAJA), 28 U.S.C. § 2412(d).
3 This amount represents compensation for all legal services rendered on behalf of
4 Plaintiff by counsel in connection with this civil action, in accordance with 28
5 U.S.C. §§ 1920; 2412(d).

6 After the Court issues an order for EAJA fees to Annette Russell, the
7 government will consider the matter of Annette Russell's assignment of EAJA fees
8 to Young Cho. The retainer agreement containing the assignment is attached as
9 exhibit 1. Pursuant to *Astrue v. Ratliff*, 130 S.Ct. 2521, 2529 (2010), the ability to
10 honor the assignment will depend on whether the fees are subject to any offset
11 allowed under the United States Department of the Treasury's Offset Program.
12 After the order for EAJA fees is entered, the government will determine whether
13 they are subject to any offset.

14 Fees shall be made payable to Annette Russell, but if the Department of the
15 Treasury determines that Annette Russell does not owe a federal debt, then the
16 government shall cause the payment of fees, expenses and costs to be made
17 directly to Law Offices of Lawrence D. Rohlfing, pursuant to the assignment
18 executed by Annette Russell.² Any payments made shall be delivered to Young
19 Cho.

20 This stipulation constitutes a compromise settlement of Annette Russell's
21 request for EAJA attorney fees, and does not constitute an admission of liability on
22 the part of Defendant under the EAJA or otherwise. Payment of the agreed amount
23 shall constitute a complete release from, and bar to, any and all claims that Annette
24

25 ² The parties do not stipulate whether counsel for the plaintiff has a
26 cognizable lien under federal law against the recovery of EAJA fees that survives
the Treasury Offset Program.

1 Russell and/or Young Cho including Law Offices of Lawrence D. Rohlfing may
2 have relating to EAJA attorney fees in connection with this action.

3 This award is without prejudice to the rights of Young Cho and/or the Law
4 Offices of Lawrence D. Rohlfing to seek Social Security Act attorney fees under
5 42 U.S.C. § 406(b), subject to the savings clause provisions of the EAJA.

6 DATE: March 27, 2017 Respectfully submitted,

7 LAW OFFICES OF LAWRENCE D. ROHLFING

8 */s/ Young Cho*

9 BY: _____

10 DATE: March 27, 2017

Young Cho
Attorney for plaintiff Annette Russell
PHILLIP A. TALBERT
Acting United States Attorney

11 */s/ Jeffrey T. Chen*

12 _____
13 JEFFREY T. CHEN
14 Special Assistant United States Attorney
15 Attorneys for Defendant NANCY A.
BERRYHILL, Acting Commissioner of Social
Security (Per e-mail authorization)

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ORDER

Based upon the parties' above Stipulation for the Award and Payment of Equal Access to Justice Act Fees, Costs, and Expenses, IT IS ORDERED that fees and expenses in the total amount of four thousand nine hundred dollars (\$4,900.00), as authorized by 28 U.S.C. §2412, be awarded subject to the terms of the Stipulation.

IT IS SO ORDERED.

Dated: March 28, 2017

/s/ Barbara A. McAuliffe
UNITED STATES MAGISTRATE JUDGE