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8 **UNITED STATES DISTRICT COURT**
EASTERN DISTRICT OF CALIFORNIA
9 **FRESNO DIVISION**

10 JOSEPH JAMES BEASON,
11 Plaintiff,

12 vs.

13 NANCY A. BERRYHILL,
Acting Commissioner of Social Security,

14 Defendant.¹

) Case No.: 1:15-CV-01281 EPG
)
)

) STIPULATION AND AMENDED ORDER
) SETTLING ATTORNEY'S FEES
) PURSUANT TO THE EQUAL ACCESS TO
) JUSTICE ACT, 28 U.S.C. § 2412(d)
) AND COSTS²
)
)

15
16 IT IS HEREBY STIPULATED by and between the parties through their undersigned
17 counsel, subject to the approval of the Court, that Plaintiff be awarded attorney fees under the
18 Equal Access to Justice Act (EAJA), 28 U.S.C. § 2412(d), in the amount of FIVE THOUSAND
19 DOLLARS (\$5,000.00), and costs of FOUR HUNDRED DOLLARS (\$400.00). This amount
20 represents compensation for all legal services rendered on behalf of Plaintiff by counsel in
21 connection with this civil action, in accordance with 28 U.S.C. § 2412(d).

22 After the Court issues an order for EAJA fees, expenses and costs to Plaintiff, the
23 government will consider the matter of Plaintiff's assignment of EAJA fees and expenses and
24 costs to Plaintiff's attorney. Pursuant to *Astrue v. Ratliff*, 130 S.Ct. 2521 (2010), the ability to
25

26 ¹ Nancy A. Berryhill is now the Acting Commissioner of Social Security. Pursuant to Rule 25(d) of the Federal
27 Rules of Civil Procedure, Nancy A. Berryhill should be substituted for Acting Commissioner Carolyn W. Colvin as
28 the defendant in this suit. No further action needs to be taken to continue this suit by reason of the last sentence of
section 205(g) of the Social Security Act, 42 U.S.C. § 405(g).

² An amended order is issued at the request of Defendant to reflect the distinction between the award of fees and the
award of costs.

1 honor the assignment will depend on whether the fees, expenses and costs are subject to any
2 offset allowed under the United States Department of the Treasury's Offset Program. After the
3 order for EAJA fees, expenses and costs is entered, the government will determine whether they
4 are subject to any offset.

5 Fees, expenses and costs shall be made payable to Plaintiff, but if the Department of the
6 Treasury determines that Plaintiff does not owe a federal debt, then the government shall cause
7 the payment of fees, expenses and costs to be made directly to James A Yoro, pursuant to the
8 assignment executed by Plaintiff. Any payments made shall be delivered to Plaintiff's counsel.

9 This stipulation constitutes a compromise settlement of Plaintiff's request for EAJA
10 attorney fees, expenses and costs, and does not constitute an admission of liability on the part of
11 Defendant under the EAJA. Payment of the agreed amount shall constitute a complete release
12 from, and bar to, any and all claims that Plaintiff and/or Plaintiff's counsel may have relating to
13 EAJA attorney fees and expenses and costs in connection with this action.

14 This award is without prejudice to the rights of Plaintiff's counsel to seek Social Security
15 Act attorney fees under 42 U.S.C. § 406, subject to the provisions of the EAJA.

16
17 Dated: May 26, 2017
18
19 Respectfully submitted,
/s/ James A. Yoro
JAMES A. YORO
Attorney for Plaintiff
[as authorized by EMAIL on May 26, 2017]

20 Dated: May 30, 2017
21
22 PHILIP A TALBERT
United States Attorney
DEBORAH LEE STACHEL
Regional Chief Counsel, Region IX
Social Security Administration
23 By: /s/ Jean M. Turk
JEAN M. TURK
24 Special Assistant U.S. Attorney
25 Attorneys for Defendant
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ORDER

1 Based upon the parties' Stipulation for the Award and Payment of Equal Access to
2 Justice Act Fees, Costs, and Expenses (ECF No. 29), Plaintiff is awarded attorney fees under the
3 Equal Access to Justice Act (EAJA), 28 U.S.C. § 2412(d), in the amount of FIVE THOUSAND
4 DOLLARS (\$5,000.00), and costs of FOUR HUNDRED DOLLARS (\$400.00), subject to the
5 terms of the Stipulation. Plaintiffs' Motion for Attorney Fees (ECF Nos. 26, 28) is DENIED AS
6 MOOT.
7

8 IT IS SO ORDERED.

9
10 Dated: May 30, 2017

/s/ Eric P. Groj
UNITED STATES MAGISTRATE JUDGE