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18 UNITED STATES DISTRICT COURT
19 FOR THE EASTERN DISTRICT OF CALIFORNIA
20 FRESNO DIVISION

21 Harley Mcneil,

22 Plaintiff,

23 v.
24

25 NANCY A. BERRYHILL, Acting
26 Commissioner of Social Security,

27 Defendant.
28

Case No. 1:15-cv-01442-AWI-GSA

STIPULATION AND ORDER FOR THE
AWARD OF ATTORNEY FEES UNDER
THE EQUAL ACCESS TO JUSTICE ACT
(EAJA)
28 U.S.C. § 2412(d)

1 TO THE HONORABLE GARY S. AUSTIN, MAGISTRATE JUDGE OF THE
2 UNITED STATES DISTRICT COURT:

3 The Parties through their undersigned counsel, subject to the Court's approval,
4 stipulate that Plaintiff be awarded attorney fees in the amount of SIX THOUSAND,
5 TWO HUNDRED FIVE DOLLARS, and 00/100 (\$6,200.00) under the Equal Access to
6 Justice Act (EAJA), 28 U.S.C. § 2412(d). This amount represents compensation for all
7 legal services rendered on behalf of Plaintiff by counsel in connection with this civil
8 action, in accordance with 28 U.S.C. § 2412(d).

9 After the Court issues an order for EAJA fees to Plaintiff, the government will
10 consider the matter of Plaintiff's assignment of EAJA fees to counsel. Pursuant to
11 *Astrue v. Ratliff*, 560 U.S. 586, 598, 130 S.Ct. 2521, 177 L.Ed.2d 91 (2010), the ability
12 to honor the assignment will depend on whether the fees are subject to any offset
13 allowed under the United States Department of the Treasury's Offset Program. After
14 the order for EAJA fees is entered, the government will determine whether they are
15 subject to any offset.
16

17 Fees shall be made payable to Plaintiff, but if the Department of the Treasury
18 determines that Plaintiff does not owe a federal debt, then the government shall cause
19 the payment of fees, expenses and costs to be made directly to counsel, pursuant to the
20 assignment executed by Plaintiff. Any payments made shall be delivered to Plaintiff's
21 counsel, Jonathan O. Peña.

22 This stipulation constitutes a compromise settlement of Plaintiff's request for
23 EAJA fees, and does not constitute an admission of liability on the part of Defendant
24 under the EAJA. Payment of SIX THOUSAND, TWO HUNDRED DOLLARS, and
25 00/100 (\$6,200.00) in EAJA attorney fees shall constitute a complete release from, and
26 bar to, any and all claims that Plaintiff and Plaintiff's attorney, Jonathan O. Peña, may
27 have relating to EAJA attorney fees in connection with this action.
28

1 This award is without prejudice to the rights of Plaintiff's attorney to seek Social
2 Security Act attorney fees under 42 U.S.C. § 406(b), subject to the savings clause
3 provisions of the EAJA.

4 Respectfully submitted,

5
6 Dated: December 14, 2018

/s/ Jonathan O. Peña

JONATHAN O. PEÑA

Attorney for Plaintiff

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8
9 Dated: December 14, 2018

MCGREGOR W. SCOTT

United States Attorney

DEBORAH LEE STACHEL

Regional Chief Counsel, Region IX

Social Security Administration

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13 By: /s/ Ann Lucille Maley *

ANN LUCILLE MALEY

Special Assistant U.S. Attorney

Attorneys for Defendant

(*Permission to use electronic signature
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17 obtained via email on 12/14/2018).

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19 IT IS SO ORDERED.

20 Dated: December 17, 2018

/s/ Gary S. Austin

UNITED STATES MAGISTRATE JUDGE