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13 Attorneys for Defendant

14  
 15 UNITED STATES DISTRICT COURT  
 16 EASTERN DISTRICT OF CALIFORNIA

18 JIMMY LEE MISKELL,  
 19 Plaintiff,  
 20 v.  
 21 NANCY A. BERRYHILL,  
 22 ACTING COMMISSIONER OF  
 SOCIAL SECURITY,  
 23 Defendant.

No. 1:16-CV-0105 (SKO)

**STIPULATION AND ORDER FOR  
 AWARD AND PAYMENT OF  
 ATTORNEYS FEES AND EXPENSES  
 PURSUANT TO EAJA 28 U.S.C. §2412(d)**

**(Doc. 22)**

24  
 25  
 26  
 27  
 28 IT IS HEREBY STIPULATED by and between the parties, through their undersigned

1 attorneys, subject to the approval of the Court, that Jimmy Lee Miskell (Plaintiff) be awarded  
2 attorney fees and expenses under the Equal Access to Justice Act (EAJA), 28 U.S.C. §2412 (d), in  
3 the amount of four thousand seven hundred thirty-four dollars and thirty-nine cents (\$4,734.39)  
4 and expenses in the amount of eight dollars and ninety-four cents (\$8.94), for a total of four  
5 thousand seven hundred thirty-four dollars and thirty-nine cents (\$4,734.39). This represents  
6 compensation for legal services rendered on behalf of Plaintiff by counsel in connection with this  
7 civil action, in accordance with 28 U.S.C. §2412 (d).

8 After the Court issues an Order for EAJA fees to Plaintiff, the government will consider  
9 the matter of Plaintiff's assignment of EAJA fees to Plaintiff's attorney. Pursuant to *Astrue v.*  
10 *Ratliff*, 560 U.S. 586, 598 (2010), the ability to honor the assignment will depend on whether the  
11 attorney fees are subject to any offset allowed under the United States Department of the  
12 Treasury's Offset Program. After the Order for EAJA fees is entered, the government will  
13 determine whether they are subject to any offset.

14 Fees shall be made payable to Plaintiff, but if the Department of the Treasury determines  
15 that Plaintiff does not owe a federal debt subject to offset, then the government shall cause the  
16 payment of fees approved to be made payable to Melissa Newel or Newel Law (collectively  
17 "Plaintiff's counsel"), pursuant to the assignment executed by Plaintiff. Any payments made shall  
18 be delivered to Plaintiff's counsel.

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

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27 ///

28 This award is without prejudice to the rights of Plaintiff's counsel to seek Social Security

1 Act attorney fees under 42 U.S.C. §406(b), subject to the provisions of the EAJA.

2  
3 Respectfully submitted,

4 Dated: August 28, 2017

NEWEL LAW

5 By: Melissa Newel  
6 Melissa Newel  
7 Attorney for Plaintiff  
JIMMY LEE MISKELL

8  
9 Dated: August 30, 2017

PHILLIP A. TALBERT  
United States Attorney  
DEBORAH LEE STACHEL  
Regional Chief Counsel, Region IX  
Social Security Administration

12 By: Chantal R. Jenkins\*  
13 CHANTAL R. JENKINS  
14 (Authorized by email dated 08/30/2017)  
15 Special Assistant U.S. Attorney  
Attorneys for Defendant

16 **ORDER**

17  
18 Based upon the parties' above "Stipulation for the Award and Payment of Attorney's Fees  
19 and Expenses Pursuant to EAJA 28 U.S.C. §2412(d)," fees in the amount of four thousand seven  
20 hundred thirty-four dollars and thirty-nine cents (\$4,734.39) and expenses in the amount of eight  
21 dollars and ninety-four cents (\$8.94), as authorized by 28 U.S.C. §2412, for a total of **four**  
22 **thousand seven hundred and forty-three dollars and thirty-three cents (\$4,743.33)** shall be  
23 awarded subject to the terms of the Stipulation.

24  
25 IT IS SO ORDERED.

26  
27 Dated: August 31, 2017

/s/ Sheila K. Oberto  
UNITED STATES MAGISTRATE JUDGE