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4 **UNITED STATES DISTRICT COURT**
5 **EASTERN DISTRICT OF CALIFORNIA**
6 **FRESNO DIVISION**

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8 DAVID KEITH MYERS,) Case No.: 1:16-cv-00430-GSA
9 Plaintiff,)
10 vs.) STIPULATION AND ORDER APPROVING
11 NANCY A. BERRYHILL,) SETTLEMENT OF ATTORNEY FEES
Acting Commissioner of Social Security,) PURSUANT TO THE EQUAL ACCESS TO
12 Defendant.) JUSTICE ACT, 28 U.S.C. § 2412(d), AND
13) COSTS PURSUANT TO 28 U.S.C. § 1920

14 IT IS HEREBY STIPULATED by and between the parties, through their undersigned
15 counsel, subject to the Court’s approval, that Plaintiff be awarded attorney fees in the amount of
16 SIX THOUSAND ONE HUNDRED FIFTY DOLLARS (\$6,150) under the Equal Access to
17 Justice Act (EAJA), 28 U.S.C. § 2412(d), and costs in the amount of FOUR HUNDRED
18 DOLLARS (\$400) under 28 U.S.C. § 1920. This amount represents compensation for all legal
19 services rendered on behalf of Plaintiff by counsel in connection with this civil action, in
20 accordance with 28 U.S.C. §§ 1920; 2412(d).

21 After the Court issues an order for EAJA fees to Plaintiff, the government will consider
22 the matter of Plaintiff’s assignment of EAJA fees to Plaintiff’s attorney. Pursuant to *Astrue v.*
23 *Ratliff*, 560 U.S. 586, 598 (2010), the ability to honor the assignment will depend on whether the
24 fees are subject to any offset allowed under the United States Department of the Treasury’s
25 Offset Program. After the order for EAJA fees is entered, the government will determine
26 whether they are subject to any offset.

27 Fees shall be made payable to Plaintiff, but if the Department of the Treasury determines
28 that Plaintiff does not owe a federal debt, then the government shall cause the payment of fees,

1 expenses and costs to be made directly to James A. Yoro pursuant to the assignment executed by
2 Plaintiff. Any payments made shall be delivered to Plaintiff's counsel.

3 This stipulation constitutes a compromise settlement of Plaintiff's request for EAJA
4 attorney fees and expenses, and does not constitute an admission of liability on the part of
5 Defendant under the EAJA or otherwise. Payment of the agreed amount shall constitute a
6 complete release from, and bar to, any and all claims that Plaintiff and/or Plaintiff's counsel,
7 including James A. Yoro, may have relating to EAJA attorney fees and expenses in connection
8 with this action.

9 This award is without prejudice to the rights of Plaintiff's counsel and/or Chain | Cohn |
10 Stiles to seek Social Security Act attorney fees under 42 U.S.C. § 406(b), subject to the savings
11 clause provisions of the EAJA.

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13 Respectfully submitted,

14 Dated: December 11, 2017

15 By: /s/ Carolyn B. Chen for James A. Yoro
16 (As authorized by email on 12/11/2017)
17 JAMES A. YORO
18 CHAIN | COHN | STILES
19 Attorneys for Plaintiff

20 PHILLIP A. TALBERT
21 United States Attorney
22 DEBORAH LEE STACHEL
23 Regional Chief Counsel, Region IX
24 Social Security Administration

25 Dated: December 11, 2017

26 By: /s/ Carolyn B. Chen
27 CAROLYN B. CHEN
28 Special Assistant United States Attorney
Attorneys for Defendant

ORDER

29 Pursuant to the above stipulation, Plaintiff shall be awarded attorney fees in the amount
30 of SIX THOUSAND ONE HUNDRED FIFTY DOLLARS (\$6,150) as authorized by 28 U.S.C.
31 § 2412(d), and costs in the amount of FOUR HUNDRED DOLLARS (\$400) under 28 U.S.C. §

1 1920. Any payments shall be subject to *Astrue v. Ratliff*, 560 U.S. 586, 598 (2010) and the terms
2 of the above-referenced Stipulation.

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4 IT IS SO ORDERED.

5 Dated: December 15, 2017

6 /s/ Gary S. Austin
7 UNITED STATES MAGISTRATE JUDGE
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