

Jonathan O. Peña, Esq.
CA Bar ID No.: 278044
Peña & Bromberg, PLC
5740 N. Palm Avenue
Suite 103
Fresno, CA 93704
Telephone: 559-412-539
Facsimile: 866-282-6709
info@jonathanpena.com

Attorney for Plaintiff, Oscar Z. Vasquez

PHILLIP A. TALBERT
United States Attorney
DEBORAH LEE STACHEL
Regional Chief Counsel, Region IX
Social Security Administration
BEN A. Porter, WA. Bar 14195
Special Assistant United States Attorney
160 Spear Street, Suite 800
San Francisco, California 94105
Telephone: (415) 977-8979
Facsimile: (415) 744-0134
E-Mail: Ben.Porter@ssa.gov

Attorneys for Defendant

UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

OSCAR ZUNIGA VASQUEZ,

Case No. 1:16-cv-448-GSA

Plaintiff,

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

NANCY A. BERRYHILL, Acting
Commissioner of Social Security.

Defendant.

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 SEVEN THOUSAND,
5 FIVE HUNDRED DOLLARS (\$7,500.00) under the Equal Access to Justice Act
6 (EAJA), 28 U.S.C. § 2412(d). This amount represents compensation for all legal
7 services rendered on behalf of Plaintiff by counsel in connection with this civil action,
8 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 Fees shall be made payable to Plaintiff, but if the Department of the Treasury
17 determines that Plaintiff does not owe a federal debt, then the government shall cause
18 the payment of fees, expenses and costs to be made directly to counsel, pursuant to the
19 assignment executed by Plaintiff. Any payments made shall be delivered to Plaintiff's
20 counsel, Jonathan Peña, Esquire.

21 This stipulation constitutes a compromise settlement of Plaintiff's request for
22 EAJA fees, and does not constitute an admission of liability on the part of Defendant
23 under EAJA or otherwise. Payment of SEVEN THOUSAND, FIVE HUNDRED
24 DOLLARS (\$7,500.00) in EAJA attorney fees, shall constitute a complete release from,
25 and bar to, any and all claims that Plaintiff and Plaintiff's attorney, Jonathan Peña , may
26 have relating to EAJA attorney fees in connection with this action.
27

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

Respectfully submitted,

Dated: September 12, 2017

/s/ Jonathan O. Peña
JONATHAN O. PEÑA
Attorney for Plaintiff

Dated:

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

By: /s/ Ben A. Porter
BEN A. PORTER
Special Assistant U.S. Attorney
Attorneys for Defendant

ORDER

Plaintiff shall be awarded attorney fees and expenses in the amount of seven thousand five hundred dollars (\$7,500.00) under the Equal Access to Justice Act (EAJA), 28 U.S.C. § 2412(d). Payment shall be made pursuant to *Astrue v. Ratliff*, 130 S.Ct. 2521, 2529 (2010), and in accordance with the terms outlined in the above stipulation.

IT IS SO ORDERED.

Dated: September 25, 2017

/s/ Gary S. Austin
UNITED STATES MAGISTRATE JUDGE