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Attorneys for Defendant

UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

OSCAR ZUNIGA VASQUEZ,

Plaintiff,

v.

NANCY A. BERRYHILL, Acting
Commissioner of Social Security,

Defendant.

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

JOINT 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 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

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 Peña, Esquire.

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 EAJA or otherwise. Payment of SEVEN THOUSAND, FIVE HUNDRED
25 DOLLARS (\$7,500.00) in EAJA attorney fees, shall constitute a complete release from,
26 and bar to, any and all claims that Plaintiff and Plaintiff's attorney, Jonathan 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 Dated: September 12, 2017

6 /s/ Jonathan O. Peña

7 JONATHAN O. PEÑA

8 Attorney for Plaintiff

9 Dated:

10 PHILLIP A. TALBERT

11 Acting United States Attorney

12 DEBORAH LEE STACHEL

13 Regional Chief Counsel, Region IX

14 Social Security Administration

15 By: /s/ Ben A. Porter

16 BEN A. PORTER

17 Special Assistant U.S. Attorney

18 Attorneys for Defendant

19 **ORDER**

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

25 IT IS SO ORDERED.

26 Dated: September 25, 2017

27 /s/ Gary S. Austin

28 UNITED STATES MAGISTRATE JUDGE