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 8 **UNITED STATES DISTRICT COURT**  
 9 **EASTERN DISTRICT OF CALIFORNIA**

<p>10 SAM D'AMBROSIO,</p> <p>11          Plaintiff,</p> <p>12          vs.</p> <p>13 NANCY A. BERRYHILL, Acting          Commissioner of Social Security,</p> <p>14          Defendant.</p>	<p>) Case No.: 1:16-cv-00579-SKO</p> <p>)</p> <p>) STIPULATION AND ORDER FOR</p> <p>) THE AWARD AND PAYMENT OF</p> <p>) ATTORNEY FEES AND EXPENSES</p> <p>) PURSUANT TO THE EQUAL</p> <p>) ACCESS TO JUSTICE ACT, 28 U.S.C.</p> <p>) § 2412(d)</p> <p>)</p> <p>) (Doc. 19)</p> <p>)</p>
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17 TO THE HONORABLE SHEILA K. OBERTO, MAGISTRATE JUDGE

18 OF THE DISTRICT COURT:

19 IT IS HEREBY STIPULATED, by and between the parties through their

20 undersigned counsel, subject to the approval of the Court, that Sam D'ambrosio be

21 awarded attorney fees in the amount of THREE THOUSAND NINE HUNDRED

22 dollars (\$3900) under the Equal Access to Justice Act (EAJA), 28 U.S.C. §

23 2412(d). This amount represents compensation for all legal services rendered on

24 behalf of Plaintiff by counsel in connection with this civil action, in accordance

25 with 28 U.S.C. §§ 1920; 2412(d).

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1           After the Court issues an order for EAJA fees to Sam D'ambrosio, the  
2 government will consider the matter of Sam D'ambrosio's assignment of EAJA  
3 fees to Brian C. Shapiro. The retainer agreement containing the assignment is  
4 attached as exhibit 1. Pursuant to *Astrue v. Ratliff*, 130 S.Ct. 2521, 2529 (2010),  
5 the ability to honor the assignment will depend on whether the fees are subject to  
6 any offset allowed under the United States Department of the Treasury's Offset  
7 Program. After the order for EAJA fees is entered, the government will determine  
8 whether they are subject to any offset.

9           Fees shall be made payable to Sam D'ambrosio, but if the Department of the  
10 Treasury determines that Sam D'ambrosio does not owe a federal debt, then the  
11 government shall cause the payment of fees, expenses and costs to be made  
12 directly to Law Offices of Lawrence D. Rohlifing, pursuant to the assignment  
13 executed by Sam D'ambrosio.<sup>1</sup> Any payments made shall be delivered to Brian C.  
14 Shapiro.

15           This stipulation constitutes a compromise settlement of Sam D'ambrosio's  
16 request for EAJA attorney fees, and does not constitute an admission of liability on  
17 the part of Defendant under the EAJA or otherwise. Payment of the agreed amount  
18 shall constitute a complete release from, and bar to, any and all claims that Sam  
19 D'ambrosio and/or Brian C. Shapiro including Law Offices of Lawrence D.  
20 Rohlifing may have relating to EAJA attorney fees in connection with this action.  
21 This award is without prejudice to the rights of Brian C. Shapiro and/or the Law  
22 Offices of Lawrence D. Rohlifing to seek Social Security Act attorney fees ///  
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25 <sup>1</sup> The parties do not stipulate whether counsel for the plaintiff has a cognizable lien  
26 under federal law against the recovery of EAJA fees that survives the Treasury  
Offset Program.

1 under 42 U.S.C. § 406(b), subject to the savings clause provisions of the EAJA.  
2 DATE: August 18, 2017 Respectfully submitted,

3 LAW OFFICES OF LAWRENCE D. ROHLFING

4 /s/ *Brian C. Shapiro*

5 BY: \_\_\_\_\_  
6 Brian C. Shapiro  
7 Attorney for plaintiff Sam D'ambrosio

8 DATED: August 18, 2017 PHILLIP A. TALBERT  
9 Acting United States Attorney

10 /s/ *Ann L. Maley*

11 \_\_\_\_\_  
12 ANN L. MALEY  
13 Special Assistant United States Attorney  
14 Attorneys for Defendant NANCY A.  
15 BERRYHILL, Acting Commissioner of Social  
16 Security (Per e-mail authorization)

17 **ORDER**

18 Based upon the above “Stipulation for the Award and Payment of Attorney  
19 Fees and Expenses Pursuant to the Equal Access to Justice Act, 28 U.S.C. §  
20 2412(d)” (Doc. 19), IT IS ORDERED that fees and expenses in the amount of  
21 three thousand nine hundred dollars (\$3,900.00) under EAJA, 28 U.S.C. § 2412(d),  
22 be awarded subject to the terms of the above Stipulation.

23 IT IS SO ORDERED.

24 Dated: August 18, 2017

25 \_\_\_\_\_  
26 /s/ *Sheida K. Oberto*  
UNITED STATES MAGISTRATE JUDGE