

Attorneys for Defendant

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF CALIFORNIA

MAXIMINO HERRERA,

Plaintiff,

V.

NANCY A. BERRYHILL,  
ACTING COMMISSIONER OF  
SOCIAL SECURITY.

Defendant.

No. 1:16-CV-01458 (EPG)

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

1           IT IS HEREBY STIPULATED by and between the parties, through their undersigned  
2 attorneys, subject to the approval of the Court, that Maximino Herrera (Plaintiff) be awarded  
3 attorney fees under the Equal Access to Justice Act (EAJA), 28 U.S.C. §2412(d), in the amount of  
4 three thousand four hundred and thirty-two dollars and seventy-one cents (\$3,432.71). This  
5 represents compensation for legal services rendered on behalf of Plaintiff by counsel in  
6 connection with this civil action, in accordance with 28 U.S.C. § 2412(d).

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

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

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

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

Respectfully submitted,

Dated: October 24, 2017

NEWEL LAW

By: Melissa Newel

Melissa Newel  
Attorney for Plaintiff  
MAXIMINO HERRERA

Dated: November 15, 2017

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

By: *Elizabeth Firer*\*

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ELIZABETH FIRER  
(\*Authorized by email dated 11/15/2017)  
Special Assistant U.S. Attorney  
Attorneys for Defendant

## ORDER

Based upon the parties' Stipulation for the Award and Payment of Equal Access to Justice Act Fees, Costs, and Expenses, IT IS ORDERED that fees in the amount of **three thousand and four hundred thirty-two dollars and seventy-one cents (\$3,432.71)** be awarded subject to the terms of the Stipulation.

IT IS SO ORDERED.

Dated: **November 20, 2017**

/s/ Eric P. Groj  
UNITED STATES MAGISTRATE JUDGE