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

PENNY ESTHER EMBERSON,

 Plaintiff,

 v.

NANCY A. BERRYHILL, Acting
Commissioner of Social Security,

 Defendant.

Case No.: 1:16-cv-01587-EPG

**STIPULATION AND ORDER FOR THE
AWARD AND PAYMENT OF
ATTORNEY FEES AND EXPENSES
PURSUANT TO THE EQUAL ACCESS
TO JUSTICE ACT, 28 U.S.C. § 2412(d)
AND COSTS PURSUANT TO 28 U.S.C. §
1920**

TO THE HONORABLE ERICA P. GROSJEAN, MAGISTRATE JUDGE OF THE
DISTRICT COURT:

IT IS HEREBY STIPULATED, by and between the parties through their undersigned
counsel, subject to the approval of the Court, that Penny Esther Emberson be awarded attorney
fees in the amount of FOUR THOUSAND SEVEN HUNDRED dollars (\$4700)) under the
Equal Access to Justice Act (EAJA), 28 U.S.C. § 2412(d). This amount represents compensation
for all legal services rendered on behalf of Plaintiff by counsel in connection with this civil
action, in accordance with 28 U.S.C. §§ 1920; 2412(d).

After the Court issues an order for EAJA fees to Penny Esther Emberson, the
government will consider the matter of Penny Esther Emberson's assignment of EAJA fees to

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

6 Fees shall be made payable to Penny Esther Emberson, but if the Department of the
7 Treasury determines that Penny Esther Emberson does not owe a federal debt, then the
8 government shall cause the payment of fees, expenses and costs to be made directly to Law
9 Offices of Lawrence D. Rohlffing, pursuant to the assignment executed by Penny Esther
10 Emberson.¹ Any payments made shall be delivered to Brian C. Shapiro.

11 This stipulation constitutes a compromise settlement of Penny Esther Emberson's request
12 for EAJA attorney fees, and does not constitute an admission of liability on the part of Defendant
13 under the EAJA or otherwise. Payment of the agreed amount shall constitute a complete release
14 from, and bar to, any and all claims that Penny Esther Emberson and/or Brian C. Shapiro
15 including Law Offices of Lawrence D. Rohlffing may have relating to EAJA attorney fees in
16 connection with this action.

17 This award is without prejudice to the rights of Brian C. Shapiro and/or the Law Offices
18 of Lawrence D. Rohlffing to seek Social Security Act attorney fees under 42 U.S.C. § 406(b),
19 subject to the savings clause provisions of the EAJA.

20 DATE: December 7, 2017 Respectfully submitted,

21
22 LAW OFFICES OF LAWRENCE D. ROHLFFING

23
24 /s/ *Brian C. Shapiro*

25 BY: _____

26 Brian C. Shapiro

27 _____
28 ¹ The parties do not stipulate whether counsel for the plaintiff has a cognizable lien under federal
law against the recovery of EAJA fees that survives the Treasury Offset Program.

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Attorney for plaintiff Penny Esther Emberson

DATED: December 7, 2017 PHILLIP A. TALBERT

United States Attorney

/s/ Daniel P. Talbert

DANIEL P. TALBERT

Special Assistant United States Attorney

Attorneys for Defendant NANCY A. BERRYHILL, Acting
Commissioner of Social Security (Per e-mail authorization)

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ORDER

Based upon the stipulation of the parties, IT IS ORDERED that Plaintiff Penny Esther Emberson be awarded attorney fees and expenses in the amount of \$4700.00 as authorized by 28 U.S.C. § 2412, and no costs as authorized by 28 U.S.C. § 1920.

IT IS SO ORDERED.

Dated: **December 8, 2017**

/s/ Eric P. Groj
UNITED STATES MAGISTRATE JUDGE

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PROOF OF SERVICE

STATE OF CALIFORNIA, COUNTY OF LOS ANGELES

I am employed in the county of Los Angeles, State of California. I am over the age of 18 and not a party to the within action. My business address is 12631 East Imperial Highway, Suite C-115, Santa Fe Springs, California 90670.

On this day of December 8, 2017, I served the foregoing document described as
STIPULATION FOR THE AWARD AND PAYMENT OF ATTORNEY FEES AND
EXPENSES PURSUANT TO THE EQUAL ACCESS TO JUSTICE ACT, 28 U.S.C. § 2412(d)
AND COSTS PURSUANT TO 28 U.S.C. § 1920 on the interested parties in this action by
placing a true copy thereof enclosed in a sealed envelope addressed as follows:

Ms. Penny Esther Emberson
18533 Norwalk Drive
Madera, CA 93638

I caused such envelope with postage thereon fully prepaid to be placed in the United States mail at Santa Fe Springs, California.

I declare under penalty of perjury under the laws of the State of California that the above is true and correct.

I declare that I am employed in the office of a member of this court at whose direction the service was made.

Brian C. Shapiro	_____	<i>/s/ Brian C. Shapiro</i>	_____
TYPE OR PRINT NAME		SIGNATURE	

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CERTIFICATE OF SERVICE
FOR CASE NUMBER 1:16-CV-01587-EPG

I hereby certify that I electronically filed the foregoing with the Clerk of the Court for this court by using the CM/ECF system on December 8, 2017.

I certify that all participants in the case are registered CM/ECF users and that service will be accomplished by the CM/ECF system, except the plaintiff served herewith by mail.

/s/ Brian C. Shapiro

Brian C. Shapiro
Attorneys for Plaintiff