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10 Attorneys for Plaintiff
11 Ricardo Tinajero Cerdá

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13 **UNITED STATES DISTRICT COURT**
14
EASTERN DISTRICT OF CALIFORNIA

15 RICARDO TINAJERO CERDA,) Case No.: 1:17-cv-00553-SKO
16 Plaintiff,)
17 vs.) STIPULATION AND ORDER FOR
18 NANCY A. BERRYHILL, Acting) THE AWARD AND PAYMENT OF
19 Commissioner of Social Security,) ATTORNEY FEES AND EXPENSES
20) PURSUANT TO THE EQUAL
21) ACCESS TO JUSTICE ACT, 28 U.S.C.
22) § 2412(d)
23 Defendant.)
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26 TO THE HONORABLE SHEILA K. OBERTO, MAGISTRATE JUDGE
1 OF THE DISTRICT COURT:

2 IT IS HEREBY STIPULATED, by and between the parties through their
3 undersigned counsel, subject to the approval of the Court, that Ricardo Tinajero
4 Cerdá be awarded attorney fees in the amount of ONE THOUSAND SEVEN
5 HUNDRED dollars (\$1,700) under the Equal Access to Justice Act (EAJA), 28
6 U.S.C. § 2412(d). This amount represents compensation for all legal services
7 rendered on behalf of Plaintiff by counsel in connection with this civil action, in
8 accordance with 28 U.S.C. §§ 1920; 2412(d).

1 After the Court issues an order for EAJA fees to Ricardo Tinajero Cerdas,
2 the government will consider the matter of Ricardo Tinajero Cerdas assignment of
3 EAJA fees to Brian C. Shapiro. The retainer agreement containing the assignment
4 is 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 Treasurys 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 Ricardo Tinajero Cerdas, but if the
10 Department of the Treasury determines that Ricardo Tinajero Cerdas does not owe a
11 federal debt, then the government shall cause the payment of fees, expenses and
12 costs to be made directly to Law Offices of Lawrence D. Rohlfing, pursuant to the
13 assignment executed by Ricardo Tinajero Cerdas.¹ Any payments made shall be
14 delivered to Brian C. Shapiro.

15 This stipulation constitutes a compromise settlement of Ricardo Tinajero
16 Cerdas request for EAJA attorney fees, and does not constitute an admission of
17 liability on the part of Defendant under the EAJA or otherwise. Payment of the
18 agreed amount shall constitute a complete release from, and bar to, any and all
19 claims that Ricardo Tinajero Cerdas and/or Brian C. Shapiro including Law Offices
20 of Lawrence D. Rohlfing may have relating to EAJA attorney fees in connection
21 with this action.

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25 ¹ 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.

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

DATE: November 15, 2017

Respectfully submitted,

LAW OFFICES OF LAWRENCE D. ROHLFING

/s/ Brian C. Shapiro

BY:

Brian C. Shapiro

Attorney for plaintiff Ricardo Tinajero Cerdá

DATED: November 15, 2017

PHILLIP A. TALBERT
United States Attorney

/s/ Donna W. Anderson

DONNA W. ANDERSON

Special Assistant United States Attorney

Attorneys for Defendant NANCY A.

BERRYHILL, Acting Commissioner of Social Security (Per e-mail authorization)

ORDER

Based upon the parties' above 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), fees and expenses in the amount **of one thousand seven hundred dollars (\$1,700)** shall be awarded subject to the terms of the above Stipulation.

IT IS SO ORDERED.

Dated: November 16, 2017

[Signature]

UNITED STATES MAGISTRATE JUDGE