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6 UNITED STATES DISTRICT COURT
7 FOR THE EASTERN DISTRICT OF CALIFORNIA
8 FRESNO DIVISION

9 HORTENCIA T. VALENCIA,

10 Plaintiff,

11 v.

12 ANDREW SAUL,¹
13 Commissioner of Social Security,

14 Defendant.
15

Case No. 1:17-cv-01662-GSA

STIPULATION AND ORDER FOR THE
AWARD OF ATTORNEY FEES UNDER
THE EQUAL ACCESS TO JUSTICE ACT
(EAJA) (28 U.S.C. § 2412(d))

16 TO THE HONORABLE GARY S. AUSTIN, MAGISTRATE JUDGE OF THE
17 UNITED STATES DISTRICT COURT:

18 The Parties through their undersigned counsel, subject to the Court's approval,
19 stipulate that Plaintiff be awarded attorney fees in the amount of SIX THOUSAND,
20 TWO HUNDRED FIFTY DOLLARS and 00/100 (\$6,250.00) under the Equal Access
21 to Justice Act (EAJA), 28 U.S.C. § 2412(d). This amount represents compensation for
22 all legal services rendered on behalf of Plaintiff by counsel in connection with this civil
23 action, in accordance with 28 U.S.C. § 2412(d).
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25 _____
26 ¹ Andrew Saul is now the Commissioner of Social Security and is automatically substituted as a party
27 pursuant to Fed. R. Civ. P. 25(d). See also section 205(g) of the Social Security Act, 42 USC 405(g)
28 (action survives regardless of any change in the person occupying the office of Commissioner of
Social Security).

1 After the Court issues an order for EAJA fees to Plaintiff, the government will
2 consider the matter of Plaintiff's assignment of EAJA fees to counsel. Pursuant to
3 *Astrue v. Ratliff*, 560 U.S. 586, 598, 130 S.Ct. 2521, 177 L.Ed.2d 91 (2010), the ability
4 to honor the assignment will depend on whether the fees are subject to any offset
5 allowed under the United States Department of the Treasury's Offset Program. After
6 the order for EAJA fees is entered, the government will determine whether they are
7 subject to any offset.

8 Fees shall be made payable to Plaintiff, but if the Department of the Treasury
9 determines that Plaintiff does not owe a federal debt, then the government shall cause
10 the payment of fees, expenses and costs to be made directly to counsel, pursuant to the
11 assignment executed by Plaintiff. Any payments made shall be delivered to Plaintiff's
12 counsel, Jonathan O. Peña.

13 This stipulation constitutes a compromise settlement of Plaintiff's request for
14 EAJA fees, and does not constitute an admission of liability on the part of Defendant
15 under the EAJA. Payment of SIX THOUSAND, TWO HUNDRED FIFTY DOLLARS
16 and 00/100 (\$6,250.00) in EAJA attorney fees shall constitute a complete release from,
17 and bar to, any and all claims that Plaintiff and Plaintiff's attorney, Jonathan O. Peña,
18 may have relating to EAJA attorney fees in connection with this action.

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

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23 Respectfully submitted,

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25 Dated: July 19, 2019

26 /s/ Jonathan O. Peña
27 JONATHAN O. PEÑA
28 Attorney for Plaintiff

1 Dated: July 19, 2019

MCGREGOR W. SCOTT
United States Attorney
DEBORAH LEE STACHEL
Regional Chief Counsel, Region IX
Social Security Administration

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5 By: /s/ Marcelo N. Illarmo*
6 MARCELO N. ILLARMO
7 Special Assistant U.S. Attorney
8 Attorneys for Defendant
9 (*Permission to use electronic signature
10 obtained via email on 7/16/19).

11 IT IS SO ORDERED.

12 Dated: July 22, 2019

/s/ Gary S. Austin
UNITED STATES MAGISTRATE JUDGE