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9 Attorneys for Defendant

10 UNITED STATES DISTRICT COURT
11 EASTERN DISTRICT OF CALIFORNIA

12 DEBRA FERNANDES,) Case No.: 1:18-cv-00114-JDP
13)
Plaintiff,) STIPULATION AND PROPOSED ORDER
14) APPROVING SETTLEMENT OF
vs.) ATTORNEY FEES PURSUANT TO THE
15 ANDREW SAUL,¹) EQUAL ACCESS TO JUSTICE ACT, 28
Commissioner of Social Security,) U.S.C. § 2412(d)
16)
17 Defendant.)

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19
20 IT IS HEREBY STIPULATED by and between the parties, through their undersigned
21 counsel, subject to the Court's approval, that Plaintiff be awarded attorney fees in the amount of
22 FIVE THOUSAND SEVEN HUNDRED DOLLARS (\$5,700) under the Equal Access to Justice
23 Act (EAJA), 28 U.S.C. § 2412(d). This amount represents compensation for all legal services
24
25

26 ¹ Andrew Saul is now the Commissioner of Social Security and is automatically substituted as a
27 party pursuant to Fed. R. Civ. P. 25(d). *See also* section 205(g) of the Social Security Act, 42
28 U.S.C. § 405(g) (action survives regardless of any change in the person occupying the office of
Commissioner of Social Security).

1 rendered on behalf of Plaintiff by counsel in connection with this civil action, in accordance with
2 28 U.S.C. § 2412(d).

3 After the Court issues an order for EAJA fees to Plaintiff, the government will consider
4 the matter of Plaintiff's assignment of EAJA fees to Plaintiff's attorney. Pursuant to *Astrue v.*
5 *Ratliff*, 560 U.S. 586, 598 (2010), the ability to honor the assignment will depend on whether the
6 fees are subject to any offset allowed under the United States Department of the Treasury's
7 Offset 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 Plaintiff, but if the Department of the Treasury determines
10 that Plaintiff does not owe a federal debt, then the government shall cause the payment of fees to
11 be made directly to Kelsey Mackenzie Brown pursuant to the assignment executed by Plaintiff.
12 Any payments made shall be delivered to Plaintiff's counsel.

13 This stipulation constitutes a compromise settlement of Plaintiff's request for EAJA
14 attorney fees and expenses, and does not constitute an admission of liability on the part of
15 Defendant under the EAJA or otherwise. Payment of the agreed amount shall constitute a
16 complete release from, and bar to, any and all claims that Plaintiff and/or Plaintiff's counsel,
17 including Kelsey Mackenzie Brown, may have relating to EAJA attorney fees and expenses in
18 connection with this action.

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

22
23 Respectfully submitted,

24 Dated: July 23, 2019

25 By: /s/ Kelsey Mackenzie Brown
26 KELSEY MACKENZIE BROWN
27 Attorney for Plaintiff
(As authorized by email on July 23, 2019)

28 Dated: July 23, 2019

Respectfully submitted,

1 MCGREGOR W. SCOTT
2 United States Attorney
3 DEBORAH LEE STACHEL
4 Regional Chief Counsel, Region IX
5 Social Security Administration

6 By: /s/ Carolyn B. Chen
7 CAROLYN B. CHEN
8 Special Assistant U.S. Attorney

9 Attorneys for Defendant

10 ORDER

11 Pursuant to stipulation, it is ordered that plaintiff shall be awarded attorney fees in the
12 amount of five thousand seven hundred dollars (\$5,700) as authorized by 28 U.S.C. § 2412(d),
13 subject to the terms of the above-referenced stipulation.
14

15 Plaintiff's motion for attorney fees, ECF No. 30, is dismissed as moot.

16
17 IT IS SO ORDERED.

18
19 Dated: July 31, 2019

20 
21 UNITED STATES MAGISTRATE JUDGE

22 No. 205
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