

Jonathan O. Peña, Esq.
CA Bar ID No.: 278044
Peña & Bromberg, PLC
2440 Tulare St., Ste. 320
Fresno, CA 93721
Telephone: 559-439-9700
Facsimile: 559-439-9723
Email: info@jonathanpena.com
Attorney for Plaintiff, Henry Ruiz

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

HENRY RUIZ,

Plaintiff,

v.

ANDREW SAUL, Commissioner of
Social Security,

Defendant.

Case No. 1:20-cv-01399-SKO

**STIPULATION FOR THE AWARD
AND PAYMENT OF ATTORNEY
FEES AND EXPENSES PURSUANT
TO THE EQUAL ACCESS TO
JUSTICE ACT; ORDER**

(Doc. 20)

IT IS HEREBY STIPULATED by and between the parties through their undersigned counsel, subject to the approval of the Court, that Plaintiff be awarded attorney fees and expenses in the amount of \$4,250.00, 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. § 2412(d).

After the Court issues an order for EAJA fees to Plaintiff, the government will consider the matter of Plaintiff's assignment of EAJA fees to counsel. Pursuant to *Astrue v. Ratliff*, 560 U.S. 586, 598, 130 S.Ct. 2521, 177 L.Ed.2d 91 (2010), the ability to honor the assignment will depend on whether the fees are subject to any offset

1 allowed under the United States Department of the Treasury's Offset Program. After
2 the order for EAJA fees is entered, the government will determine whether they are
3 subject to any offset.

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

9 This stipulation constitutes a compromise settlement of Plaintiff's request for
10 EAJA attorney fees, and does not constitute an admission of liability on the part of
11 Defendant under the EAJA or otherwise. Payment of the agreed amount shall
12 constitute a complete release from, and bar to, any and all claims that Plaintiff and/or
13 Counsel including Counsel's firm may have relating to EAJA attorney fees in
14 connection with this action.

15 This award is without prejudice to the rights of Counsel and/or Counsel's firm
16 to seek Social Security Act attorney fees under 42 U.S.C. § 406(b), subject to the
17 savings clause provisions of the EAJA.

18
19 Respectfully submitted,

20
21 Dated: June 1, 2021

/s/ Jonathan O. Peña
22 JONATHAN O. PEÑA
23 Attorney for Plaintiff

24 Dated: June 1, 2021

PHILLIP A. TALBERT
25 Acting United States Attorney
26 DEBORAH LEE STACHEL
27 Regional Chief Counsel, Region IX
28 Social Security Administration

By: Ellinor R. Coder*
Ellinor R. Coder
Special Assistant U.S. Attorney
Attorneys for Defendant
(*Permission to use electronic signature
obtained via email on June 1, 2021).

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

1 **ORDER**

2 Based upon the parties' above Stipulation for the Award and Payment of Attorney
3 Fees and Expenses Pursuant to the Equal Access to Justice Act (the "Stipulation") (Doc.
4 20),
5

6 **IT IS ORDERED** that fees and expenses in the amount of \$4,250.00 as authorized
7 by 28 U.S.C. § 2412 be awarded subject to the terms of the Stipulation.
8

9
10 IT IS SO ORDERED.

11 Dated: June 4, 2021

/s/ Sheila K. Oberle
12 UNITED STATES MAGISTRATE JUDGE
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28