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9 Attorney for Plaintiff, Ai Xiong

10 **UNITED STATES DISTRICT COURT**
11 **FOR THE EASTERN DISTRICT OF CALIFORNIA**
12 **FRESNO DIVISION**

13 Ai Xiong,

14 Plaintiff,

15 v.

16 Kilolo Kijakazi, Acting
17 Commissioner of Social Security,

18 Defendant.

Case No. 1:21-cv-00134-GSA

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

19 IT IS HEREBY STIPULATED by and between the parties through their
20 undersigned counsel, subject to the approval of the Court, that Plaintiff be awarded
21 attorney fees and expenses in the amount of SEVEN THOUSAND SIX HUNDRED
22 DOLLARS AND 00/100 (\$7,600.00) under the Equal Access to Justice Act (EAJA), 28
23 U.S.C. § 2412(d), and cost in the amount of ZERO dollars (\$0.00) under 28 U.S.C.
24 §1920. This amount represents compensation for all legal services rendered on behalf of
25 Plaintiff by counsel in connection with this civil action, in accordance with 28 U.S.C. §
26 2412(d).

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
11 the assignment executed by Plaintiff. Any payments made shall be delivered to
12 Plaintiff's counsel, Jonathan O. Peña.

13 This stipulation constitutes a compromise settlement of Plaintiff's request for
14 EAJA attorney fees, 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
16 constitute a complete release from, and bar to, any and all claims that Plaintiff and/or
17 Counsel including Counsel's firm may have relating to EAJA attorney fees in
18 connection with this action.

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

22 Respectfully submitted,

23
24 Dated: September 12, 2022

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

28 Dated: September 12, 2022

PHILLIP A. TALBERT

1 United States Attorney
2 PETER K. THOMPSON
3 Acting Regional Chief Counsel, Region IX
4 Social Security Administration

5 By: * Chantal R. Jenkins
6 Chantal R. Jenkins
7 Special Assistant U.S. Attorney
8 Attorneys for Defendant
9 (*Permission to use electronic signature
10 obtained via email on September 12, 2022)

11 **ORDER**

12 Based upon the parties' Stipulation for the Award and Payment of Equal Access
13 to Justice Act Fees and Expenses (the "Stipulation"),

14 **IT IS ORDERED** that fees and expenses in the amount of SEVEN THOUSAND
15 SIX HUNDRED DOLLARS AND 00/100 (\$7,600.00) as authorized by the Equal
16 Access to Justice Act (EAJA), 28 U.S.C. § 2412(d), be awarded subject to the terms of
17 the Stipulation.
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19
20 IT IS SO ORDERED.

21 Dated: September 16, 2022

22 /s/ Gary S. Austin
23 UNITED STATES MAGISTRATE JUDGE
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