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

MELISSA HAMMOND,

Plaintiff,

v.

KILOLO KIJAKAZI, Acting
Commissioner of Social Security,

Defendant.

Case No. 1:21-cv-00552-SKO

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

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 \$6,295.96, 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: May 4, 2022

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

22
23
24 Dated: May 4, 2022

PHILLIP A. TALBERT
United States Attorney
PETER THOMPSON
Acting Regional Chief Counsel, Region IX
Social Security Administration

1 By: Andrea Banks*
2 ANDREA BANKS
3 Special Assistant U.S. Attorney
4 Attorneys for Defendant
5 (*Permission to use electronic signature
6 obtained via email on May 4, 2022).

7 **ORDER**

8 Based upon the parties' foregoing Stipulation for the Award and Payment of
9 Attorney Fees and Expenses Pursuant to the Equal Access to Justice Act (the
10 "Stipulation") (Doc. 20),

11 **IT IS ORDERED** that fees and expenses in the amount of \$6,295.96 as
12 authorized by 28 U.S.C. § 2412 be awarded subject to the terms of the Stipulation.
13

14
15 IT IS SO ORDERED.

16
17 Dated: May 5, 2022

/s/ Sheila K. Oberto
UNITED STATES MAGISTRATE JUDGE