

1 Jonathan O. Peña, Esq.
2 CA Bar ID No.: 278044
3 Peña & Bromberg, PLC
4 2440 Tulare St., Ste. 320
5 Fresno, CA 93721
6 Telephone: 559-439-9700
7 Facsimile: 559-439-9723
8 Email: info@jonathanpena.com
9 Attorney for Plaintiff, Rosalio Betancourt

8 UNITED STATES DISTRICT COURT
9 EASTERN DISTRICT OF CALIFORNIA

10 ROSALIO BETANCOURT,

11 Plaintiff,

12 v.

13 COMMISSIONER OF SOCIAL
14 SECURITY,

15 Defendant.
16

Case No. 1:22-cv-00570-EPG

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

(ECF No. 16).

17 IT IS HEREBY STIPULATED by and between the parties through their undersigned counsel,
18 subject to the approval of the Court, that Plaintiff be awarded attorney fees and expenses in the amount
19 of FOUR HUNDRED EIGHTY-SIX DOLLARS AND 12/100 (\$486.12) under the Equal Access to
20 Justice Act (EAJA), 28 U.S.C. § 2412(d), and cost in the amount of ZERO dollars (\$0.00) under 28
21 U.S.C. §1920. This amount represents compensation for all legal services rendered on behalf of
22 Plaintiff by counsel in connection with this civil action, in accordance with 28 U.S.C. §§ 2412(d),
23 1920.

24 After the Court issues an order for EAJA fees to Plaintiff, the government will consider the
25 matter of Plaintiff's assignment of EAJA fees to counsel. Pursuant to *Astrue v. Ratliff*, 560 U.S. 586,
26 598, 130 S.Ct. 2521, 177 L.Ed.2d 91 (2010), the ability to honor the assignment will depend on
27 whether the fees are subject to any offset allowed under the United States Department of the
28

1 Treasury's Offset Program. After the order for EAJA fees is entered, the government will determine
2 whether they are subject to any offset.

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

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

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

15 Respectfully submitted,

16 Dated: November 16, 2022

/s/ Jonathan O. Peña

JONATHAN O. PEÑA
Attorney for Plaintiff

19 Dated: November 16, 2022

PHILLIP A. TALBERT
United States Attorney
MATHEW W. PILE
Associate General Counsel
Office of Program Litigation
Social Security Administration

23 By: * Mary Tsai

24 Mary Tsai
25 Special Assistant U.S. Attorney
26 Attorneys for Defendant
27 (*Permission to use electronic signature
28 obtained via email on November 16, 2022).

ORDER

Based upon the parties' stipulation (ECF No. 16), IT IS ORDERED that fees and expenses in the amount of \$486.12 as authorized by the Equal Access to Justice Act, 28 U.S.C. § 2412(d), and no costs as authorized by 28 U.S.C. § 1920, be awarded subject to the terms of the stipulation.

IT IS SO ORDERED.

Dated: November 18, 2022

/s/ Eric P. Groj
UNITED STATES MAGISTRATE JUDGE

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