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8 Attorney for Plaintiff
9 RANDY PHELPS

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12 UNITED STATES DISTRICT COURT
13 EASTERN DISTRICT OF CALIFORNIA
14 FRESNO DIVISION

15 RANDY PHELPS,
16 Plaintiff,
17 v.
18 KILOLO KIJAKAZI, Acting
19 Commissioner of Social Security,
Defendant.

Case No. 1:22-cv-00824-SKO
STIPULATION FOR THE AWARD AND
PAYMENT OF ATTORNEY FEES AND
EXPENSES PURSUANT TO THE
EQUAL ACCESS TO JUSTICE ACT;
ORDER
(Doc. 17)

20 IT IS HEREBY STIPULATED by and between the parties through their
21 undersigned counsel, subject to the approval of the Court, that Plaintiff be awarded
22 attorney fees and expenses in the amount of \$7,250.00, under the Equal Access to
23 Justice Act (EAJA), 28 U.S.C. § 2412(d), and no costs under 28 U.S.C. § 1920. This
24 amount represents compensation for all legal services rendered on behalf of Plaintiff by
25 counsel in connection with this civil action, in accordance with 28 U.S.C. §§ 2412(d),
26 1920.

27 After the Court issues an order for EAJA fees to Plaintiff, the government will
28 consider the matter of Plaintiff's assignment of EAJA fees to counsel. Pursuant to

1 *Astrue v. Ratliff*, 560 U.S. 586, 598, 130 S.Ct. 2521, 177 L.Ed.2d 91 (2010), the ability
2 to honor the assignment will depend on whether the fees are subject to any offset
3 allowed under the United States Department of the Treasury's Offset Program. After
4 the order for EAJA fees is entered, the government will determine whether they are
5 subject to any offset.

6 Fees shall be made payable to Plaintiff, but if the Department of the Treasury
7 determines that Plaintiff does not owe a federal debt, then the government shall cause
8 the payment of fees, expenses and costs to be made directly to Plaintiff's counsel,
9 Francesco Benavides, pursuant to the assignment executed by Plaintiff.

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

16 This award is without prejudice to the rights of Francesco Benavides to seek
17 Social Security Act attorney fees under 42 U.S.C. § 406(b), subject to the savings
18 clause provisions of the EAJA.

19
20 Respectfully submitted,

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22 Dated: January 13, 2023

Law Offices of Francesco Benavides

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24 By: /s/ Francesco Benavides
25 FRANCESCO P. BENAVIDES
26 Attorney for Plaintiff

1 Dated: January 13, 2023

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

5 By: *Elizabeth Landgraf*
6 ELIZABETH LANDGRAF
7 Special Assistant U.S. Attorney
8 Attorneys for Defendant
9 (*Permission to use electronic signature
obtained via email on January 12, 2023).

10 **ORDER**

11 Based upon the parties' foregoing Stipulation for the Award and Payment of Equal
12 Access to Justice Act Fees and Expenses (Doc. 17),

13 **IT IS ORDERED** that fees and expenses in the amount of \$7,250.00 as authorized
14 by 28 U.S.C. § 2412, and no costs under 28 U.S.C. § 1920, be awarded subject to the
15 terms of the Stipulation.

16 IT IS SO ORDERED.

17 Dated: **January 17, 2023**

/s/ Sheila K. Oberto
UNITED STATES MAGISTRATE JUDGE