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8 Attorney for Plaintiff  
9 RANDY PHELPS

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

13 RANDY PHELPS,

14 Plaintiff,

15 v.

16 KILOLO KIJAKAZI, Acting  
17 Commissioner of Social Security,

18 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)

19  
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,

21  
22 Dated: January 13, 2023

23 Law Offices of Francesco Benavides

24 By: /s/ Francesco Benavides  
25 FRANCESCO P. BENAVIDES  
26 Attorney for Plaintiff  
27  
28

1 Dated: January 13, 2023

2 PHILLIP A. TALBERT  
3 United States Attorney  
4 MATHEW W. PILE  
5 Associate General Counsel  
6 Social Security Administration

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

13 **ORDER**

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

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

19 IT IS SO ORDERED.

20 Dated: January 17, 2023

21 /s/ Sheila K. Oberto  
22 UNITED STATES MAGISTRATE JUDGE  
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