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10 Attorneys for Defendant

11 **UNITED STATES DISTRICT COURT**  
12 **EASTERN DISTRICT OF CALIFORNIA**

13 DANTE ANTHONY FORTUNATO, ) Case No.: 1:23-cv-00119-JDP  
14 )  
15 Plaintiff, ) STIPULATION FOR THE AWARD AND  
16 vs. ) PAYMENT OF ATTORNEY FEES  
17 ) PURSUANT TO THE EQUAL ACCESS TO  
18 MARTIN O'MALLEY, ) JUSTICE ACT, 28 U.S.C. § 2412(d);  
Commissioner of Social Security, ) ~~PROPOSED~~ ORDER  
19 Defendant. )

20  
21 IT IS HEREBY STIPULATED by and between the parties through their undersigned  
22 counsel, subject to the approval of the Court, that Plaintiff be awarded attorney fees in the  
23 amount \$8,360.79 (EIGHT THOUSAND THREE HUNDRED SIXTY dollars and SEVENTY-  
24 NINE cents) under the Equal Access to Justice Act (EAJA), 28 U.S.C. § 2412(d). This amount  
25 represents compensation for all legal services rendered on behalf of Plaintiff by counsel in  
26 connection with this civil action, in accordance with 28 U.S.C. §§ 1920; 2412(d).

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

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

5 If the Court approves the stipulated amount(s) and the claimant has no federal debt,  
6 payment shall be delivered electronically or by mail to Olinsky Law Group. This is to match the  
7 waiver and assignment signed by the claimant.

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

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

16 Respectfully submitted,

17 Date: July 2, 2024

/s/ Stuart T. Barasch  
STUART T. BARASCH  
(as authorized by email)  
Attorney for Plaintiff

20 Date: July 2, 2024

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

24 By: /s/ James Ki


25 JAMES KI  
Special Assistant United States Attorney  
26 Social Security Administration  
27 Attorney for Defendant  
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**ORDER**

Based upon the parties' Stipulation for the Award and Payment of Equal Access to Justice Act Fees, **IT IS ORDERED** that fees in the amount of \$8,360.79 as authorized by 28 U.S.C. § 2412, be awarded subject to the terms of the Stipulation. Plaintiff's motion for fees, ECF No. 25, is denied as moot.

IT IS SO ORDERED.

Dated: July 8, 2024

  
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JEREMY D. PETERSON  
UNITED STATES MAGISTRATE JUDGE