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

13 Olga L Claros,

14 Plaintiff,

15 v.

16 Martin O'Malley<sup>1</sup>, Commissioner of  
17 Social Security,

18 Defendant.

Case No. 1:23-cv-01029-GSA

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

19 IT IS HEREBY STIPULATED by and between the parties through their  
20 undersigned counsel, subject to the approval of the Court, that Plaintiff be awarded  
21 attorney fees and expenses in the amount of SEVEN THOUSAND DOLLARS AND  
22 00/100 (\$7,000.00) under the Equal Access to Justice Act (EAJA), 28 U.S.C. § 2412(d),  
23 and costs in the amount of zero dollars (\$0.00) under 28 U.S.C. §1920. This amount  
24

25 \_\_\_\_\_  
26 <sup>1</sup> Martin O'Malley became the Commissioner of Social Security on December  
27 20, 2023. Pursuant to Rule 25(d) of the Federal Rules of Civil Procedure, Martin  
28 O'Malley should be substituted for Kilolo Kijakazi as the defendant in this suit. No  
further action need be taken to continue this suit by reason of the last sentence of  
section 205(g) of the Social Security Act, 42 U.S.C. § 405(g).

1 represents compensation for all legal services rendered on behalf of Plaintiff by counsel  
2 in connection with this civil action, in accordance with 28 U.S.C. §§ 1920, 2412(d).

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

10 Fees shall be made payable to Plaintiff, but if the Department of the Treasury  
11 determines that Plaintiff does not owe a federal debt, then the government shall cause  
12 the payment of fees, expenses and costs to be made directly to Counsel, pursuant to  
13 the assignment executed by Plaintiff. Any payments made shall be delivered and  
14 made payable to Plaintiff's counsel, Jonathan O. Peña. Additionally, any payment of  
15 costs under 28 U.S.C. §1920 may be made either by electronic fund transfer (ETF) or  
16 by check.

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

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

26 Respectfully submitted,  
27  
28

1 Dated: June 5, 2024

/s/ Jonathan O. Peña

2 JONATHAN O. PEÑA

3 Attorney for Plaintiff

4 Dated: June 5, 2024

PHILLIP A. TALBERT

5 United States Attorney

6 MATHEW W. PILE

7 Associate General Counsel

8 Office of Program Litigation

Social Security Administration

9 By: \* Noah Schabaker

10 Noah Schabaker

11 Special Assistant U.S. Attorney

12 Attorneys for Defendant

13 (\*Permission to use electronic signature  
14 obtained via email on June 4, 2024.

15 **ORDER**

16  
17 Based upon the parties' Stipulation for the Award and Payment of Equal Access  
18 to Justice Act Fees and Expenses (the "Stipulation"),

19 **IT IS ORDERED** that fees and expenses in the amount of SEVEN THOUSAND  
20 DOLLARS AND 00/100 (\$7,000.00) as authorized by the Equal Access to Justice Act  
21 (EAJA), 28 U.S.C. § 2412(d), be awarded subject to the terms of the Stipulation.  
22

23  
24 IT IS SO ORDERED.

25 Dated: June 5, 2024

/s/ Gary S. Austin

26 UNITED STATES MAGISTRATE JUDGE