

1 Jonathan O. Peña, Esq.  
 2 CA Bar ID No.: 278044  
 3 Peña & Bromberg, PLC  
 4 3467 W. Shaw Ave., Ste 100  
 5 Fresno, CA 93711  
 6 Telephone: 559-439-9700  
 7 Facsimile: 559-439-9723  
 8 Email: info@jonathanpena.com  
 9 Attorney for Plaintiff, Jennifer Michelle Dominguez

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

13 Jennifer Michelle Dominguez,  
 14  
 15 Plaintiff,  
 16  
 17 v.  
 18 Carolyn Colvin<sup>1</sup>, ACTING  
 19 COMMISSIONER OF SOCIAL  
 20 SECURITY,  
 21  
 22 Defendant.

Case No. 1:23-cv-01785-KES-GSA

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

23 IT IS HEREBY STIPULATED by and between the parties through their  
 24 undersigned counsel, subject to the approval of the Court, that Plaintiff be awarded  
 25 attorney fees and expenses in the amount of NINE THOUSAND TWO HUNDRED  
 26 FIFTY DOLLARS AND 00/100 (\$9,250.00) under the Equal Access to Justice Act  
 27 (EAJA), 28 U.S.C. § 2412(d), and costs in the amount of FOUR HUNDRED AND

28 <sup>1</sup> Carolyn Colvin became the Commissioner of Social Security on November 30, 2024. Pursuant to Rule 25(d) of the Federal Rules of Civil Procedure, Carolyn Colvin should be substituted for Martin O’Malley 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 FIVE DOLLARS AND 00/100 (\$405.00) under 28 U.S.C. §1920. This amount  
2 represents compensation for all legal services rendered on behalf of Plaintiff by counsel  
3 in connection with this civil action, in accordance with 28 U.S.C. §§ 1920, 2412(d).

4 Plaintiff was the prevailing party in this matter and Plaintiff is an individual  
5 whose net worth does not exceed \$2,000,000 at the time the civil action was filed.

6 After the Court issues an order for EAJA fees to Plaintiff, the government will  
7 consider the matter of Plaintiff's assignment of EAJA fees to Plaintiff's attorney.  
8 Under *Astrue v. Ratliff*, 130 S. Ct. 2521, 2528-29 (2010), EAJA fees awarded by this  
9 Court belong to the Plaintiff and are subject to offset under the Treasury Offset Program  
10 (31 U.S.C. § 3716(c)(3)(B) (2006)). Any EAJA fees should therefore be awarded to  
11 Plaintiff and not to Plaintiff's attorney. If, after receiving the Court's EAJA fee order,  
12 the Commissioner (1) determines that Plaintiff has assigned his right to EAJA fees to  
13 his attorney; (2) determines that Plaintiff does not owe a debt that is subject to offset  
14 under the Treasury Offset Program, and (3) agrees to waive the requirements of the  
15 Anti-Assignment Act, then the EAJA fees will be made payable to Plaintiff's attorney.  
16 However, if there is a debt owed under the Treasury Offset Program, the Commissioner  
17 cannot agree to waive the requirements of the Anti-Assignment Act, and the remaining  
18 EAJA fees after offset will be paid by a check or electronic fund transfer (EFT) made  
19 out to Plaintiff, but delivered to Plaintiff's attorney.  
20

21 This stipulation constitutes a compromise settlement of Plaintiff's request for  
22 EAJA attorney fees, and does not constitute an admission of liability on the part of  
23 Defendant under the EAJA or otherwise. Payment of the agreed amount shall constitute  
24 a complete release from, and bar to, any and all claims that Plaintiff and/or Counsel  
25 including Counsel's firm may have relating to EAJA attorney fees in connection with  
26 this action.  
27  
28

1 The parties further agree that the EAJA award is without prejudice to the right of  
2 Plaintiff's attorney to seek attorney fees pursuant to Social Security Act § 206(b), 42  
3 U.S.C. § 406(b), subject to the offset provisions of the EAJA. *See* 28 U.S.C. §  
4 2412(c)(1) (2006).

5 Respectfully submitted,

6  
7 Dated: January 2, 2025

/s/ Jonathan O. Peña

JONATHAN O. PEÑA

Attorney for Plaintiff

8  
9  
10 Dated: January 2, 2025

PHILLIP A. TALBERT

United States Attorney

MATHEW W. PILE

Associate General Counsel

Office of Program Litigation

Social Security Administration

11  
12  
13  
14  
15 By: \* Marcelo N. Illarmo

Marcelo N. Illarmo

Special Assistant U.S. Attorney

Attorneys for Defendant

16  
17  
18 (\*Permission to use electronic signature  
19 obtained via email on January 2, 2025).

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

**ORDER**

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

**IT IS ORDERED** that fees and expenses in the amount of NINE THOUSAND TWO HUNDRED FIFTY DOLLARS AND 00/100 (\$9,250.00) as authorized by the Equal Access to Justice Act (EAJA), 28 U.S.C. § 2412(d) and costs in the amount of FOUR HUNDRED AND FIVE DOLLARS AND 00/100 (\$405.00) under 28 U.S.C. §1920, be awarded subject to the terms of the Stipulation.

IT IS SO ORDERED.

Dated: January 3, 2025

/s/ Gary S. Austin  
UNITED STATES MAGISTRATE JUDGE