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

13 Lupe Espinoza,

14 Plaintiff,

15 v.

16 Leland Dudek¹, ACTING
 17 COMMISSIONER OF SOCIAL
 18 SECURITY,

19 Defendant.

Case No. 1:24-cv-01259-GSA

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

(Doc. 13)

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 EIGHT HUNDRED EIGHTY-ONE
 23 DOLLARS AND 44/100 (\$881.44) under the Equal Access to Justice Act (EAJA), 28
 24 U.S.C. § 2412(d), and costs in the amount of ZERO dollars (\$0.00) under 28 U.S.C.

25 _____
 26 ¹ Leland Dudek became the Acting Commissioner of Social Security on February
 27 16, 2025. Pursuant to Rule 25(d) of the Federal Rules of Civil Procedure, Leland Dudek
 28 should be substituted for Michelle King 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 §1920. This amount represents compensation for all legal services rendered on behalf of
2 Plaintiff by counsel in connection with this civil action, in accordance with 28 U.S.C.
3 §§ 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 JONATHAN O. PEÑA-MANCINAS at the firm, PEÑA & BROMBERG, PC.
17 However, if there is a debt owed under the Treasury Offset Program, the Commissioner
18 cannot agree to waive the requirements of the Anti-Assignment Act, and the remaining
19 EAJA fees after offset will be paid by a check or electronic fund transfer (EFT) made
20 out to Plaintiff, but delivered to Plaintiff's attorney, JONATHAN O. PEÑA-
21 MANCINAS at the firm, PEÑA & BROMBERG, PC.
22

23 This stipulation constitutes a compromise settlement of Plaintiff's request for
24 EAJA attorney fees, and does not constitute an admission of liability on the part of
25 Defendant under the EAJA or otherwise. Payment of the agreed amount shall constitute
26 a complete release from, and bar to, any and all claims that Plaintiff and/or Counsel
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28

1 including Counsel's firm may have relating to EAJA attorney fees in connection with
2 this action.

3 The parties further agree that the EAJA award is without prejudice to the right of
4 Plaintiff's attorney to seek attorney fees pursuant to Social Security Act § 206(b), 42
5 U.S.C. § 406(b), subject to the offset provisions of the EAJA. *See* 28 U.S.C. §
6 2412(c)(1) (2006).

7 Respectfully submitted,

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9 Dated: March 5, 2025

/s/ Jonathan O. Peña

JONATHAN O. PEÑA

Attorney for Plaintiff

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11
12 Dated: March 5, 2025

MICHELE BECKWITH

United States Attorney

MATHEW W. PILE

Associate General Counsel

Office of Program Litigation

Social Security Administration

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17 By: * Justin Lane Martin

Justin Lane Martin

Special Assistant U.S. Attorney

Attorneys for Defendant

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20 (*Permission to use electronic signature
21 obtained via email on March 5, 2025).

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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 EIGHT HUNDRED EIGHTY-ONE DOLLARS AND 44/100 (\$881.44) as authorized by the Equal Access to Justice Act (EAJA), 28 U.S.C. § 2412(d), and costs in the amount of ZERO dollars (\$0.00) under 28 U.S.C. §1920, be awarded subject to the terms of the Stipulation.

IT IS SO ORDERED.

Dated: March 5, 2025

/s/ Gary S. Austin
UNITED STATES MAGISTRATE JUDGE