

1 BENJAMIN B. WAGNER  
 United States Attorney  
 2 LUCILLE GONZALES MEIS  
 Regional Chief Counsel, Region IX  
 3 Social Security Administration  
 ARMAND D. ROTH  
 4 Special Assistant United States Attorney  
 California Bar No. 214624

5 333 Market Street, Suite 1500  
 6 San Francisco, California 94105  
 Telephone: (415) 977-8924  
 7 Facsimile: (415) 744-0134  
 E-Mail: Armand.Roth@ssa.gov  
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9 Attorneys for Defendant Commissioner of Social Security

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

13 JONATHAN LUCKETT,

14 Plaintiff,

15 v.

16 MICHAEL J. ASTRUE,  
 Commissioner of  
 17 Social Security,

18 Defendant.

CIVIL NO. 09-cv-00037-KJN

STIPULATION AND ~~PROPOSED~~ ORDER  
 SETTLING ATTORNEY'S FEES  
 PURSUANT TO THE EQUAL ACCESS TO  
 JUSTICE ACT, 28 U.S.C. § 2412(d)

19 \_\_\_\_\_ )  
 20 IT IS HEREBY STIPULATED by and between the parties through their undersigned counsel,  
 21 subject to the approval of the Court, that Plaintiff be awarded attorney fees under the Equal Access to  
 22 Justice Act (EAJA), 28 U.S.C. § 2412(d), in the amount of SIX THOUSAND NINE HUNDRED  
 23 SEVENTY-FIVE DOLLARS (\$6,975). This amount represents compensation for all legal services  
 24 rendered on behalf of Plaintiff by counsel in connection with this civil action, in accordance with  
 25 28 U.S.C. § 2412(d).

26 After the Court issues an order for EAJA fees and expenses to Plaintiff, the government will  
 27 consider the matter of Plaintiff's assignment of EAJA fees and expenses to Plaintiff's attorney. Pursuant  
 28 to *Astrue v. Ratliff*, 130 S.Ct. 2521 (2010), the ability to honor the assignment will depend on whether  
 the fees and expenses are subject to any offset allowed under the United States Department of the

1 Treasury's Offset Program. After the order for EAJA fees and expenses is entered, the government will  
2 determine whether they are subject to any offset.

3 Fees and expenses shall be made payable to Plaintiff, but if the Department of the Treasury  
4 determines that Plaintiff does not owe a federal debt, then the government shall cause the payment of  
5 fees and expenses to be made directly to Bess Brewer, pursuant to the assignment executed by Plaintiff.  
6 Any payments made shall be delivered to Plaintiff's counsel.

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

12 This award is without prejudice to the rights of Plaintiff's counsel to seek Social Security Act  
13 attorney fees under 42 U.S.C. § 406, subject to the provisions of the EAJA.

14 Respectfully submitted,

15 Dated: January 11, 2011

/s/ Bess Brewer  
BESS BREWER  
*(As authorized via email)*

17 Attorney for Plaintiff

18 Dated: January 11, 2011

BENJAMIN B. WAGNER  
United States Attorney  
LUCILLE GONZALES MEIS  
Regional Chief Counsel, Region IX  
Social Security Administration  
/s/Armand Roth  
ARMAND ROTH  
Special Assistant U.S. Attorney

22 Attorneys for Defendant

ORDER

Pursuant to the stipulation filed by the parties, IT IS HEREBY ORDERED that plaintiff's counsel, as assignee, shall be awarded attorney fees in the amount of SIX THOUSAND NINE HUNDRED SEVENTY-FIVE DOLLARS (\$6,975), as authorized by 28 U.S.C. § 2412(d), subject to the terms of the above-referenced stipulation.

IT IS SO ORDERED.

DATED: January 11, 2011

  
KENDALL J. NEWMAN  
UNITED STATES MAGISTRATE JUDGE

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