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13 Attorneys for Defendant

14 UNITED STATES DISTRICT COURT  
 15 EASTERN DISTRICT OF CALIFORNIA  
 16 SACRAMENTO DIVISION

17 VASILY LYUBEZHANIN,	)	Case No. 2:09-CV-01415-KJM
18 Plaintiff,	)	
19 V.	)	STIPULATION AND ORDER FOR THE
20 MICHAEL J. ASTRUE,	)	AWARD OF ATTORNEY FEES PURSUANT
21 Commissioner of Social Security,	)	TO THE EQUAL ACCESS TO JUSTICE ACT,
22 Defendant.	)	28 U.S.C. § 2412(d)
23	)	

24 IT IS HEREBY STIPULATED by and between the parties through their  
 25 undersigned counsel, subject to the approval of the Court, that the previously filed Equal  
 26 Access to Justice Act (EAJA) application is hereby withdrawn.

27 IT IS HEREBY STIPULATED by and between the parties through their  
 28 undersigned counsel, subject to the approval of the Court, that Plaintiff be awarded  
 attorney fees under the EAJA in the amount of ONE THOUSAND SEVEN HUNDRED  
 TWENTY-FIVE dollars and 0 cents (\$1,725.00). This amount represents compensation  
 for all legal services rendered on behalf of Plaintiff, to date, by counsel in connection with  
 this civil action, in accordance with 28 U.S.C. § 2412.

1 After the Court issues an order for EAJA fees to Plaintiff, the government will  
2 consider the matter of Plaintiff's assignment of EAJA fees to Plaintiff's attorney. Pursuant  
3 to Astrue v. Ratliff, 130 S.Ct.2521 (2010), the ability to honor the assignment will depend  
4 on whether the fees are subject to any offset allowed under the United States Department  
5 of the Treasury's Offset Program. After the order for EAJA fees is entered, the  
6 government will determine whether they are subject to any offset.

7 Fees shall be made payable to Plaintiff, but if the Department of the Treasury  
8 determines that Plaintiff does not owe a federal debt, then the government shall cause the  
9 payment of fees, expenses and costs to be made directly to Jesse S. Kaplan, pursuant to the  
10 assignment executed by Plaintiff. Any payments made shall be delivered to Plaintiff's  
11 counsel.

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

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

1 Respectfully submitted November 5, 2010.

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3  
4 Dated: November 5, 2010

Respectfully submitted,

/s/ Jesse S. Kaplan  
(As authorized via email)  
JESSE S. KAPLAN  
Attorney for Plaintiff

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8 BENJAMIN B. WAGNER  
United States Attorney

9 Date: November 5, 2010

10 By s/ Daniel P. Talbert  
DANIEL P. TALBERT  
Special Assistant U. S. Attorney

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12 Attorneys for Defendant Michael J. Astrue

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17 ORDER

18 APPROVED AND SO ORDERED.

19  
20 DATED: November 9, 2010.

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22 \_\_\_\_\_  
U.S. MAGISTRATE JUDGE