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8 UNITED STATES DISTRICT COURT
 9 EASTERN DISTRICT OF CALIFORNIA
 10 **SACRAMENTO DIVISION**

11 SOM KHALECK,)
 12)
 13 Plaintiff,)
 14)
 15 v.)
 16 MICHAEL J. ASTRUE,)
 17 Commissioner of Social Security,)
 18)
 19 Defendant.)
 20)
 21)
 22)
 23)
 24)
 25)

Case No. 2:09-cv-01726-DAD

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

17 IT IS HEREBY STIPULATED by and between the parties, through their undersigned
 18 counsel, subject to the Court's approval, that Plaintiff be awarded attorney fees under the Equal
 19 Access to Justice Act (EAJA), 28 U.S.C. § 2412(d), in the amount of TWO THOUSAND,
 20 THREE HUNDRED SEVENTY-TWO DOLLARS AND 22 CENTS (\$2,372.22).¹ This amount
 21 represents compensation for all legal services rendered on behalf of Plaintiff by counsel in
 22 connection with this civil action, in accordance with 28 U.S.C. § 2412(d).

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 26 ¹Under the EAJA, a "prevailing party" must file an application for attorney fees "within thirty days of
 27 final judgment." 28 U.S.C. § 2412(d)(1)(A), (B); see also *Akopyan v. Barnhart*, 296 F.3d 852, 854 (9th
 28 Cir. 2002). The Commissioner has waived the defense of timeliness in this case. Waiver applies to in
 this case only and should not be construed as an intent to agree to waiver in any other case.

1 After the Court issues an order for EAJA fees and expenses to Plaintiff, the government
2 will consider the matter of Plaintiff's assignment of EAJA fees and expenses to Plaintiff's
3 attorney. Pursuant to Astrue v. Ratliff, 130 S. Ct. 2521 (U.S. June 14, 2010), the ability to honor
4 the assignment will depend on whether the fees and expenses are subject to any offset allowed
5 under the United States Department of the Treasury's Offset Program. After the order for EAJA
6 fees and expenses is entered, the government will determine whether they are subject to any
7 offset.

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

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

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

19 Dated: March 18, 2011

/s/Bess M. Brewer
(As authorized via email)

BESS M. BREWER
Attorney for Plaintiff

22 Dated: March 18, 2011

BENJAMIN B. WAGNER
United States Attorney
LUCILLE GONZALES MEIS
Regional Chief Counsel, Region IX
Social Security Administration

/s/

Special Assistant U.S. Attorney
Attorneys for Defendant

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ORDER

Pursuant to the parties' stipulation, and subject to the terms thereof, Plaintiff shall be awarded attorney fees under the EAJA in the amount of \$2,372.22.

IT IS SO ORDERED.

DATED: March 21, 2011.



DALE A. DROZD
UNITED STATES MAGISTRATE JUDGE

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