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Merlene Fay Wilson Sujo

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

MERLENE FAY WILSON SUJO,)	Case No. 2:12-cv-01441-EFB
)	
Plaintiff,)	STIPULATION AND PROPOSED
)	ORDER FOR THE AWARD AND
vs.)	PAYMENT OF ATTORNEY FEES
CAROLYN W. COLVIN, Acting)	AND EXPENSES PURSUANT TO
Commissioner of Social Security,)	THE EQUAL ACCESS TO JUSTICE
)	ACT, 28 U.S.C. § 2412(d)
)	
Defendant)	

TO THE HONORABLE EDMUND F. BRENNAN, MAGISTRATE
JUDGE OF THE DISTRICT COURT:

IT IS HEREBY STIPULATED by and between the parties through their undersigned counsel, subject to the approval of the Court, that Merlene Fay Wilson Sujo be awarded attorney fees and expenses in the amount of four thousand two hundred dollars (\$4,200.00) under the Equal Access to Justice Act (EAJA), 28 U.S.C. § 2412(d). This amount represents compensation for all legal services rendered on behalf of Plaintiff by counsel in connection with this civil action, in accordance with 28 U.S.C. § 2412(d).

1 After the Court issues an order for EAJA fees to Merlene Fay Wilson Sujo,
2 the government will consider the matter of Merlene Fay Wilson Sujo's assignment
3 of EAJA fees to Young Cho. Pursuant to *Astrue v. Ratliff*, 130 S.Ct. 2521, 2529
4 (2010), the ability to honor the assignment will depend on whether the fees are
5 subject to any offset allowed under the United States Department of the Treasury's
6 Offset Program. After the order for EAJA fees is entered, the government will
7 determine whether they are subject to any offset.

8 Fees shall be made payable to Merlene Fay Wilson Sujo, but if the
9 Department of the Treasury determines that Merlene Fay Wilson Sujo does not
10 owe a federal debt, then the government shall cause the payment of fees, expenses
11 and costs to be made directly to Law Offices of Lawrence D. Rohlring, pursuant to
12 the assignment executed by Merlene Fay Wilson Sujo. *United States v.*
13 *\$186,416.00*, 722 F.3d 1173, 1176 (9th Cir. 2013) (*\$186,416.00 II*) (ordering fees
14 paid to counsel because of an assignment that did not interfere with a raised
15 superior lien).¹ Any payments made shall be delivered to Young Cho.

18 ¹ The Commissioner does not stipulate to the citation of *\$186,416.00 II*, and will
19 not participate in representing to this Court that it carries legal import in these
20 proceedings. *\$186,416 II* involved a different statute and very different factual
21 circumstances than those presented here, or in other Social Security cases.
22 Because the parties have agreed to the payment of EAJA fees, and the amount, and
23 to avoid motion practice solely related to Plaintiff's citation, the Commissioner
24 agrees to this stipulation. The Commissioner reserves the right to challenge the
25 applicability of \$186,416 to any Social Security case, and this Stipulation should
26 not be construed as a waiver of such reservation.

Merlene Fay Wilson Sujo contends that *U.S. v. \$186,416.00 in U.S. Currency*, 642
F.3d 753, 757 (9th Cir. 2011) (*\$186,416.00 I*) held that there is no functional
difference between the CAFRA and EAJA in terms of "ownership" of the fee.

1 This stipulation constitutes a compromise settlement of Merlene Fay Wilson
2 Sujo's request for EAJA attorney fees, and does not constitute an admission of
3 liability on the part of Defendant under the EAJA or otherwise. Payment of the
4 agreed amount shall constitute a complete release from, and bar to, any and all
5 claims that Merlene Fay Wilson Sujo and/or Young Cho including Law Offices of
6 Lawrence D. Rohlfing may have relating to EAJA attorney fees in connection with
7 this action.

8 This award is without prejudice to the rights of Young Cho and/or the Law
9 Offices of Lawrence D. Rohlfing to seek Social Security Act attorney fees under
10 42 U.S.C. § 406(b), subject to the savings clause provisions of the EAJA.

11 DATE: November 25, 2013 Respectfully submitted,

12 LAW OFFICES OF LAWRENCE D. ROHLFING

13
14 */s/ Young Cho*

15 BY: _____

16 Young Cho
17 Attorney for plaintiff Merlene Fay Wilson Sujo

18 DATE: November 25, 2013 BENJAMIN B. WAGNER
19 United States Attorney

20 */s/ Lynn M. Harada*

21 _____
22 Lynn M. Harada
23 Special Assistant United States Attorney
24 Attorneys for Defendant Carolyn W. Colvin,
25 Acting Commissioner of Social Security
26 (Per e-mail authorization)

ORDER

Approved and so ordered.

DATED: December 5, 2013.


EDMUND F. BRENNAN
UNITED STATES MAGISTRATE JUDGE