

1 BENJAMIN B. WAGNER
United States Attorney
2 DONNA L. CALVERT
Acting Regional Chief Counsel, Region IX
3 Social Security Administration
4 LYNN M. HARADA, CSBN 267616
Special Assistant United States Attorney
5 160 Spear Street, Suite 800
San Francisco, California 94105
6 Telephone: (415) 977-8977
7 Facsimile: (415) 744-0134
E-Mail: Lynn.Harada@ssa.gov
8

9 Attorneys for Defendant

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

12 FRANK B. HALYDAY,)	Case No.: 2:12-cv-01761-KJN
)	
13 Plaintiff,)	STIPULATION AND PROPOSED ORDER
)	APPROVING SETTLEMENT OF
14 vs.)	ATTORNEY FEES PURSUANT TO THE
15 CAROLYN W. COLVIN,)	EQUAL ACCESS TO JUSTICE ACT
Acting Commissioner of Social Security,)	
)	
16 Defendant.)	
)	
17)	
18)	

19 IT IS HEREBY STIPULATED by and between the parties, through their undersigned
20 counsel, subject to the Court's approval, that Plaintiff be awarded attorney fees under the Equal
21 Access to Justice Act (EAJA), 28 U.S.C. § 2412(d), in the amount of FOUR THOUSAND,
22 THREE-HUNDRED DOLLARS AND ZERO CENTS (\$4,300.00). This amount represents
23 compensation for all legal services rendered on behalf of Plaintiff by counsel in connection with
24 this civil action, in accordance with 28 U.S.C. § 2412(d).

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

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

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

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

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

14
15 Respectfully submitted,

16 Dated: November 26, 2013 By: /s/ Ann M. Cerney
17 (As authorized by email on 11/25/13)
18 ANN M. CERNEY
Attorney for Plaintiff

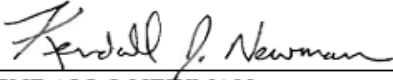
19 BENJAMIN B. WAGNER
20 United States Attorney
21 DONNA L. CALVERT
Acting Regional Chief Counsel, Region IX
22 Social Security Administration

23 Dated: November 26, 2013 By: /s/ Lynn M. Harada
24 LYNN M. HARADA
25 Special Assistant United States Attorney
26 Attorneys for Defendant
27
28

ORDER

PURSUANT TO STIPULATION, IT IS SO ORDERED that Plaintiff shall be awarded attorney fees in the amount of FOUR THOUSAND, THREE-HUNDRED DOLLARS AND ZERO CENTS (\$4,300.00), as authorized by 28 U.S.C. § 2412(d), subject to the terms of the above-referenced Stipulation.

Dated: November 27, 2013


KENDALL J. NEWMAN
UNITED STATES MAGISTRATE JUDGE

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28