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13 Attorneys for Defendant

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

17 DONALD GIER,	)	Case No. 2:13-CV-00012-KJN
18 Plaintiff,	)	
19 v.	)	STIPULATION AND ORDER
20 CAROLYN W. COLVIN,	)	SETTLING ATTORNEY’S FEES PURSUANT TO
21 Acting Commissioner of	)	THE EQUAL ACCESS TO JUSTICE ACT,
22 Social Security,	)	28 U.S.C. § 2412(d)
23 Defendant.	)	
24	)	

25 IT IS HEREBY STIPULATED by and between the parties through their undersigned counsel,  
 26 subject to the approval of the Court, that Plaintiff be awarded attorney fees under the Equal Access to  
 27 Justice Act (EAJA), 28 U.S.C. § 2412(d), in the amount of THREE THOUSAND TWO HUNDRED  
 28 FIFTY DOLLARS AND 00/100 CENTS (\$3,250.00). 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. §§ 1920, 2412(d).

After the Court issues an order for EAJA fees to Plaintiff, the government will consider the  
 matter of Plaintiff’s assignment of EAJA fees to Plaintiff’s attorney. Pursuant to *Ratliff v. Astrue*, 130 S.  
 Ct. 2521 (U.S. June 14, 2010) the ability to honor the assignment will depend on whether the fees are

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

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

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

16 Date: April 10, 2014

s/ Jesse S. Kaplan  
(As authorized by email on 4/9/2014)  
JESSE S. KAPLAN  
Attorney for Plaintiff

17  
18  
19 Date: April 10, 2014

BENJAMIN B. WAGNER  
United States Attorney

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21 By s/ Carolyn B. Chen  
22 CAROLYN B. CHEN  
23 Special Assistant U. S. Attorney

24 Attorneys for Defendant  
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**ORDER**

PURSUANT TO STIPULATION, IT IS SO ORDERED that Plaintiff shall be awarded attorney fees in the amount of THREE THOUSAND TWO HUNDRED FIFTY DOLLARS AND ZERO CENTS (\$3,250.00), as authorized by 28 U.S.C. § 2412(d), subject to the terms of the above-referenced Stipulation.

**APPROVED AND SO ORDERED.** This order resolves docket number 32.

Dated: April 10, 2014



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KENDALL J. NEWMAN  
UNITED STATES MAGISTRATE JUDGE