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7

8 UNITED STATES DISTRICT COURT

9 EASTERN DISTRICT OF CALIFORNIA

10 MICHAEL BRIEN SPENCER,

11 No. 2:13-cv-01074-DAD

12 Plaintiff,

13 vs.

14 CARMEL W. COLVIN,
15 Acting Commissioner of Social Security,

16 STIPULATION AND ORDER
17 FOR THE AWARD OF ATTORNEY FEES
18 PURSUANT TO THE EQUAL ACCESS TO
19 JUSTICE ACT, 28 U.S.C. § 2412(d)

20 Defendant

21 IT IS HEREBY STIPULATED by and between the parties through their undersigned
22 counsel, subject to the approval of the Court, that Plaintiff be awarded attorney fees under the
23 EAJA in the amount of FOUR THOUSAND FIVE HUNDRED (\$4,500.00). This amount
24 represents compensation for all legal services rendered on behalf of Plaintiff, to date, by counsel
25 in connection with this civil action, in accordance with 28 U.S.C. § 2412.

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

1 the United States Department of the Treasury's Offset Program. After the order for EAJA fees
2 and 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 Treasury
4 determines that Plaintiff does not owe a federal debt, then the government shall cause the
5 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

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

14 This award is without prejudice to the rights of Plaintiff's counsel to seek Social Security
15 Act attorney fees under 42 U.S.C. § 406, subject to the offset provisions of the EAJA.
16

17 Respectfully submitted,

18 Dated: December 3, 2014

/s/ Ann M. Cerney
19 ANN M. CERNEY
20 Attorney for Plaintiff

21 BENJAMIN B. WAGNER
22 United States Attorney
23 DONNA L. CALVERT
24 Regional Chief Counsel

25 Date: December 3, 2014

/s/ Jeffrey T. Chen
26 (As authorized via email on 12/02/14)
27 Special Assistant United States Attorney
28

ORDER

Pursuant to the parties' stipulation, IT IS SO ORDERED.

Dated: December 18, 2014

Dale A. Drozd
DALE A. DROZD
UNITED STATES MAGISTRATE JUDGE

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