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 8 **UNITED STATES DISTRICT COURT**
 9 **EASTERN DISTRICT OF CALIFORNIA**

10 JOHN F. ROSS,) Case No.: 2:13-cv-02127-CKD
 11)
 12 Plaintiff,) STIPULATION AND PROPOSED
) ORDER FOR THE AWARD AND
 13 vs.) PAYMENT OF ATTORNEY FEES
) AND EXPENSES PURSUANT TO
 14 CAROLYN W. COLVIN, Acting) THE EQUAL ACCESS TO JUSTICE
 Commissioner of Social Security,) ACT, 28 U.S.C. § 2412(d) AND
) COSTS PURSUANT TO 28 U.S.C. §
 15) 1920
 Defendant.)
 16)

17
 18 TO THE HONORABLE CAROLYN K. DELANEY, MAGISTRATE
 19 JUDGE OF THE DISTRICT COURT:

20 IT IS HEREBY STIPULATED by and between the parties through their
 21 undersigned counsel, subject to the approval of the Court, that John F. Ross be
 22 awarded attorney fees and expenses in the amount of four thousand dollars
 23 (\$4,000.00) under the Equal Access to Justice Act (EAJA), 28 U.S.C. § 2412(d).
 24 This amount represents compensation for all legal services rendered on behalf of
 25 Plaintiff by counsel in connection with this civil action, in accordance with 28
 26 U.S.C. §§ 1920; 2412(d).

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

8 Fees shall be made payable to John F. Ross, but if the Department of the
9 Treasury determines that John F. Ross does not owe a federal debt, then the
10 government shall cause the payment of fees, expenses and costs to be made
11 directly to Law Offices of Lawrence D. Rohlfig, pursuant to the assignment
12 executed by John F. Ross. *United States v. \$186,416.00*, 722 F.3d 1173, 1176 (9th
13 Cir. 2013) (\$186,416.00 II) (ordering fees paid to counsel because of an
14 assignment that did not interfere with a raised superior lien).¹ Any payments made
15 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 II* to any Social Security case, and this Stipulation should
26 not be construed as a waiver of such reservation.

John Ross 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 John F. Ross's
2 request for EAJA attorney fees, and does not constitute an admission of liability on
3 the part of Defendant under the EAJA or otherwise. Payment of the agreed amount
4 shall constitute a complete release from, and bar to, any and all claims that John F.
5 Ross and/or Young Cho including Law Offices of Lawrence D. Rohlring may have
6 relating to EAJA attorney fees in connection with this action.

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

10 DATE: December 2, 2014 Respectfully submitted,

11 LAW OFFICES OF LAWRENCE D. ROHLRING

12 */s/ Young Cho*

13 BY: _____
14 Young Cho
15 Attorney for plaintiff John F. Ross

16 DATE: December 2, 2014

17 BENJAMIN B. WAGNER
18 United States Attorney

19 */s/ Tova Wolking*

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

26 **ORDER**

Approved and so ordered.

Dated: December 8, 2014

Carolyn K. Delaney

CAROLYN K. DELANEY
UNITED STATES MAGISTRATE JUDGE