

1 Steven G. Rosales
2 Attorney at Law: 222224
3 Law Offices of Lawrence D. Rohlfiing
4 12631 East Imperial Highway, Suite C-115
5 Santa Fe Springs, CA 90670
6 Tel.: (562)868-5886
7 Fax: (562)868-8868
8 E-mail: rohlfiing.office@rohlfiinglaw.com

9 Attorneys for Plaintiff
10 Jonathan M.D. Schnell

11 **UNITED STATES DISTRICT COURT**
12 **EASTERN DISTRICT OF CALIFORNIA**

13 JONATHAN M.D. SCHNELL,) No. 2:14-cv-02632-KJN (TEMP)
14)
15 Plaintiff,) STIPULATION AND ORDER FOR THE
16) AWARD AND PAYMENT OF ATTORNEY
17 vs.) FEES AND EXPENSES PURSUANT TO
18) THE EQUAL ACCESS TO JUSTICE ACT,
19 CAROLYN W. COLVIN, Acting) 28 U.S.C. § 2412(d)
20 Commissioner of Social Security,)
21)
22 Defendant.)
23)
24)
25)
26)

27 TO THE HONORABLE KENDALL J. NEWMAN, MAGISTRATE JUDGE OF THE
28 DISTRICT COURT:

29 IT IS HEREBY STIPULATED by and between the parties through their undersigned
30 counsel, subject to the approval of the Court, that Jonathan M.D. Schnell be awarded attorney
31 fees in the amount of THREE THOUSAND FIVE HUNDRED dollars (\$3,500.00) under the
32 Equal Access to Justice Act (EAJA), 28 U.S.C. § 2412(d). This amount represents compensation
33 for all legal services rendered on behalf of Plaintiff by counsel in connection with this civil
34 action, in accordance with 28 U.S.C. § 2412(d).
35

1 After the Court issues an order for EAJA fees to Jonathan M.D. Schnell, the government
2 will consider the matter of Jonathan M.D. Schnell's assignment of EAJA fees to Steven G.
3 Rosales. The retainer agreement containing the assignment is attached as exhibit 1. Pursuant to
4 *Astrue v. Ratliff*, 130 S.Ct. 2521, 2529 (2010), the ability to honor the assignment will depend on
5 whether the fees are subject to any offset allowed under the United States Department of the
6 Treasury's 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 Jonathan M.D. Schnell, but if the Department of the
9 Treasury determines that Jonathan M.D. Schnell does not owe a federal debt, then the
10 government shall cause the payment of fees, expenses and costs to be made directly to Law
11 Offices of Lawrence D. Rohlfig, pursuant to the assignment executed by Jonathan M.D.
12 Schnell. *United States v. \$186,416.00*, 722 F.3d 1173, 1176 (9th Cir. 2013) (*\$186,416.00 II*)
13 (ordering fees paid to counsel because of an assignment that did not interfere with a raised
14 superior lien).¹ Any payments made shall be delivered to Steven G. Rosales.

15 This stipulation constitutes a compromise settlement of Jonathan M.D. Schnell's request
16 for EAJA attorney fees, and does not constitute an admission of liability on the part of Defendant
17 under the EAJA or otherwise. Payment of the agreed amount shall constitute a complete release
18

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

Jonathan M.D. Schnell 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. *U.S. v. Kim*, 797 F.3d 696, 699 (9th Cir. 2015)
holds that the Anti-Assignment Act invalidates an assignment but does not preclude the attorney
from gaining an interest in the fees.

1 from, and bar to, any and all claims that Jonathan M.D. Schnell and/or Steven G. Rosales
2 including Law Offices of Lawrence D. Rohlring may have relating to EAJA attorney fees in
3 connection with this action.

4 This award is without prejudice to the rights of Steven G. Rosales and/or the Law Offices
5 of Lawrence D. Rohlring to seek Social Security Act attorney fees under 42 U.S.C. § 406(b),
6 subject to the savings clause provisions of the EAJA.

7 DATE: April 6, 2016

Respectfully submitted,

LAW OFFICES OF LAWRENCE D. ROHLRING

/s/ Steven G. Rosales

BY: _____

Steven G. Rosales

Attorney for plaintiff Jonathan M.D. Schnell

12 DATED: April 19, 2016

BENJAMIN B. WAGNER

United States Attorney

/s/ Theophous H. Reagans

THEOPHOUS H. REAGANS


Special Assistant United States Attorney
Attorneys for Defendant Carolyn W. Colvin,
Acting Commissioner of Social Security
(Per e-mail authorization)

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

ORDER

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

Dated: April 26, 2016


KENDALL J. NEWMAN
UNITED STATES MAGISTRATE JUDGE