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10 Attorneys for Plaintiff, Leroy D. Mayberry

11 UNITED STATES DISTRICT COURT
12 FOR THE EASTERN DISTRICT OF CALIFORNIA

13 Leroy D. Mayberry,

14 Plaintiff,

15 v.

16 NANCY A. BERRYHILL, Acting
17 Commissioner of Social Security,

18 Defendant.

No. 2:15-cv-0818 DB

STIPULATION AND ORDER FOR THE
AWARD OF ATTORNEY FEES UNDER
THE EQUAL ACCESS TO JUSTICE ACT
(EAJA)
28 U.S.C. § 2412(d)

19 TO THE HONORABLE DEBORAH BARNES, MAGISTRATE JUDGE OF
20 THE UNITED STATES DISTRICT COURT:

21 The Parties through their undersigned counsel, subject to the Court's approval,
22 stipulate that Plaintiff be awarded attorney fees in the amount of SIX THOUSAND
23 DOLLARS (\$6,000.00) under the Equal Access to Justice Act (EAJA), 28 U.S.C.
24 § 2412(d), and FOUR HUNDRED (\$400.00) in costs to be paid separately from the
25 Judgment Fund. This amount represents compensation for all legal services rendered on
26 behalf of Plaintiff by counsel in connection with this civil action, in accordance with 28
27 U.S.C. § 2412(d).
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1 After the Court issues an order for EAJA fees to Plaintiff, the government will
2 consider the matter of Plaintiff's assignment of EAJA fees to counsel. Pursuant to
3 *Astrue v. Ratliff*, 560 U.S. 586, 598, 130 S.Ct. 2521, 177 L.Ed.2d 91 (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 Program. After
6 the order for EAJA fees is entered, the government will determine whether they are
7 subject to any offset.

8 Fees shall be made payable to Plaintiff, but if the Department of the Treasury
9 determines that Plaintiff does not owe a federal debt, then the government shall cause
10 the payment of fees, expenses and costs to be made directly to counsel, pursuant to the
11 assignment executed by Plaintiff. Any payments made shall be delivered to Plaintiff's
12 counsel, Jon Peña.

13 This stipulation constitutes a compromise settlement of Plaintiff's request for
14 EAJA fees, and does not constitute an admission of liability on the part of Defendant
15 under EAJA or otherwise. Payment of SIX THOUSAND DOLLARS (\$6,000.00) in
16 EAJA attorney fees, and FOUR HUNDRED (\$400.00) in costs to be paid separately
17 from the Judgment Fund, shall constitute a complete release from, and bar to, any and
18 all claims that Plaintiff and Plaintiff's attorney, Jon Peña, may have relating to EAJA
19 attorney fees in connection with this action.
20

21 This award is without prejudice to the rights of Plaintiff's attorney to seek Social
22 Security Act attorney fees under 42 U.S.C. § 406(b), subject to the savings clause
23 provisions of the EAJA.
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Respectfully submitted,

Dated: May 24, 2017

/s/ Jonathan O. Peña
JONATHAN O. PEÑA
Attorney for Plaintiff

Dated: May 24, 2017

PHILLIP A. TALBERT
Acting United States Attorney
DEBORAH LEE STACHEL
Regional Chief Counsel, Region IX
Social Security Administration

By: /s/ Timothy Bolin*

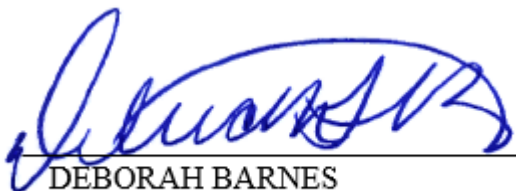
TIMOTHY BOLIN
Special Assistant U.S. Attorney
Attorneys for Defendant

(*consent to use electronic signature received via
email dated 5/24/17)

ORDER

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

Dated: August 21, 2018


DEBORAH BARNES
UNITED STATES MAGISTRATE JUDGE

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