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5 Attorneys for Plaintiff
 6 Attorney for plaintiff R.P., by and through her
 guardian ad litem, Tracie Perez
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**UNITED STATES DISTRICT COURT
 EASTERN DISTRICT OF CALIFORNIA**

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R.P. BY AND THROUGH HER
 GUARDIAN AD LITEM TRACIE
 PEREZ,,

Plaintiff,

vs.

CAROLYN W. COLVIN, Acting
 Commissioner of Social Security,

Defendant.

) Case No.: 2:15-cv-01366-AC
)
) **STIPULATION AND PROPOSED**
) **ORDER FOR THE AWARD AND**
) **PAYMENT OF ATTORNEY FEES**
) **AND EXPENSES PURSUANT TO**
) **THE EQUAL ACCESS TO JUSTICE**
) **ACT, 28 U.S.C. § 2412(d) AND**
) **COSTS PURSUANT TO 28 U.S.C. §**
) **1920**
)
)

21 TO THE HONORABLE ALLISON CLAIRE, MAGISTRATE JUDGE OF
 22 THE UNITED STATES DISTRICT COURT:

23 IT IS HEREBY STIPULATED by and between the parties through their
 24 undersigned counsel, subject to the approval of the Court, that plaintiff, R.P., by
 25 and through her guardian ad litem, Tracie Perez, be awarded attorney fees in the
 26 amount of two thousand eight hundred dollars (\$2,800.00) under the Equal Access

1 to Justice Act (EAJA), 28 U.S.C. § 2412(d). This amount represents compensation
2 for all legal services rendered on behalf of Plaintiff by counsel in connection with
3 this civil action, in accordance with 28 U.S.C. §§ 1920; 2412(d).

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

11 Fees shall be made payable to plaintiff, but if the Department of the
12 Treasury determines that plaintiff does not owe a federal debt, then the government
13 shall cause the payment of fees, expenses and costs to be made directly to Law
14 Offices of Lawrence D. Rohlifing, pursuant to the assignment executed by
15 plaintiff. *United States v. \$186,416.00*, 722 F.3d 1173, 1176 (9th Cir. 2013)
16 (*\$186,416.00 II*) (ordering fees paid to counsel because of an assignment that did
17 not interfere with a raised superior lien).¹ Any payments made shall be delivered
18 to Young Cho.

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

1 This stipulation constitutes a compromise settlement of plaintiff's request
2 for EAJA attorney fees, and does not constitute an admission of liability on the part
3 of Defendant under the EAJA or otherwise. Payment of the agreed amount shall
4 constitute a complete release from, and bar to, any and all claims that plaintiff
5 and/or Young Cho including Law Offices of Lawrence D. Rohlfing 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. Rohlfing 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: February 11, 2016

Respectfully submitted,

11 LAW OFFICES OF LAWRENCE D. ROHLFING

12 /s/ *Young Cho*

13 BY: _____

Young Cho
14 Attorney for plaintiff R.P., by and through her
guardian ad litem, Tracie Perez

15 DATE: February 11, 2016

16 BENJAMIN B. WAGNER
United States Attorney

17 /s/ *Michael K. Marriott*

18 _____
19 Michael K. Marriott
20 Special Assistant United States Attorney
21 Attorneys for Defendant Carolyn W. Colvin,
Acting Commissioner of Social Security
22 (Per e-mail authorization)


23 Plaintiff contends that *U.S. v. \$186,416.00 in U.S. Currency*, 642 F.3d 753, 757
24 (9th Cir. 2011) (*\$186,416.00 I*) held that there is no functional difference between
25 the CAFRA and EAJA in terms of "ownership" of the fee. *U.S. v. Kim*, 797 F.3d
26 696, 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.

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ORDER

Approved and so ordered:

DATE: February 11, 2016



ALLISON CLAIRE
UNITED STATES MAGISTRATE JUDGE

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