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4 Attorney for DAVID JOHNSON

5 UNITED STATE DISTRICT COURT  
 6 EASTERN DISTRICT OF CALIFORNIA

7 DAVID JOHNSON,  
 Plaintiff,

Case No.: **2:16-CV-00492-AC**

8 vs.

STIPULATION AND ~~PROPOSED~~ ORDER  
 FOR PAYMENT OF PLAINTIFF'S  
 ATTORNEY FEES

9  
 10 COMMISSIONER OF SOCIAL SECURITY,  
 Defendant

11  
 12 To the honorable ALLISON CLAIRE, IT IS HEREBY STIPULATED by and between  
 13 the parties through their undersigned counsel, subject to the approval of the Court, that DAVID  
 14 JOHNSON be awarded attorney fees and expenses in the amount of \$7,200.00 under the Equal  
 15 Access to Justice Act (EAJA), 28 U.S.C. § 2412(d). This amount represents compensation for  
 16 all legal services rendered on behalf of Plaintiff by counsel in connection with this civil action, in  
 accordance with 28 U.S.C. §§ 1920; 2412(d).

17 After the Court issues an order for EAJA fees to DAVID JOHNSON, the government  
 18 will consider the matter of assignment of EAJA fees to PETER BRIXIE. The retainer agreement  
 19 containing the assignment is attached as exhibit 1. Pursuant to *Astrue v. Ratliff*, 130 S.Ct. 2521,  
 20 2529 (2010), the ability to honor the assignment will depend on whether the fees are subject to  
 21 any offset allowed under the United States Department of the Treasury's Offset Program. After  
 the order for EAJA fees is entered, the government will determine whether they are subject to  
 any offset.

22 Fees shall be made payable to DAVID JOHNSON, but if the Department of the Treasury  
 23 determines that DAVID JOHNSON does not owe a federal debt, then the government shall cause  
 24 the payment of fees, expenses and costs to be made directly to PETER BRIXIE pursuant to the  
 25

1 assignment executed by DAVID JOHNSON any payments made shall be delivered to PETER  
2 BRIXIE

3 This stipulation constitutes a compromise settlement of DAVID JOHNSON vs.  
4 COMMISSIONER OF SOCIAL SECURITY request for EAJA attorney fees, and does not  
5 constitute an admission of liability on the part of Defendant under the EAJA or  
6 otherwise. Payment of the agreed amount shall constitute a complete release from, and bar to,  
7 any and all claims that DAVID JOHNSON may have relating to EAJA attorney fees in  
8 connection with this action. This award is without prejudice to the rights of PETER BRIXIE to  
9 seek Social Security Act attorney fees under 42 U.S.C. § 406(b), subject to the savings clause  
10 provisions of the EAJA.

11 Respectfully submitted,

12 Dated: 10/10/2017

13 By:

/s/ Peter Brixie

PETER E. BRIXIE

Attorney at Law

Attorney for Plaintiff

14 Dated: 10/10/2017

/s/ Jeffery T. Chen

JEFFERY T. CHEN

Special Assistant United States Attorney

Attorneys for Defendant

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17 APPROVED AND SO ORDERED

18 Dated: 10/11/2017

19   
20 ALLISON CLAIRE  
21 UNITED STATES MAGISTRATE JUDGE  
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23  
24  
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