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19 UNITED STATES DISTRICT COURT
20 FOR THE EASTERN DISTRICT OF CALIFORNIA
21 SACRAMENTO DIVISION

22 MICHAEL DANIEL,

23 Plaintiff,

24 v.

26 NANCY A. BERRYHILL, Acting
27 Commissioner of Social Security,

28 Defendant.

Case No. 2:17-CV-0980-CKD

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

1 TO THE HONORABLE CAROLYN K. DELANEY, MAGISTRATE JUDGE
2 OF THE UNITED STATES DISTRICT COURT:

3 The Parties through their undersigned counsel, subject to the Court's approval,
4 stipulate that Plaintiff be awarded attorney fees in the amount of FIVE THOUSAND,
5 FIVE HUNDRED FORTY DOLLARS and 13/100 (\$5,540.13) under the Equal Access
6 to Justice Act (EAJA), 28 U.S.C. § 2412(d). This amount represents compensation for
7 all legal services rendered on behalf of Plaintiff by counsel in connection with this civil
8 action, in accordance with 28 U.S.C. § 2412(d).

9 After the Court issues an order for EAJA fees to Plaintiff, the government will
10 consider the matter of Plaintiff's assignment of EAJA fees to counsel. Pursuant to
11 *Astrue v. Ratliff*, 560 U.S. 586, 598, 130 S.Ct. 2521, 177 L.Ed.2d 91 (2010), the ability
12 to honor the assignment will depend on whether the fees are subject to any offset
13 allowed under the United States Department of the Treasury's Offset Program. After
14 the order for EAJA fees is entered, the government will determine whether they are
15 subject to any offset.
16

17 Fees shall be made payable to Plaintiff, but if the Department of the Treasury
18 determines that Plaintiff does not owe a federal debt, then the government shall cause
19 the payment of fees, expenses and costs to be made directly to counsel, pursuant to the
20 assignment executed by Plaintiff. Any payments made shall be delivered to Plaintiff's
21 counsel, Jonathan O. Peña.

22 This stipulation constitutes a compromise settlement of Plaintiff's request for
23 EAJA fees, and does not constitute an admission of liability on the part of Defendant
24 under the EAJA. Payment of FIVE THOUSAND, FIVE HUNDRED FORTY
25 DOLLARS and 13/100(\$5,540.13) in EAJA attorney fees shall constitute a complete
26 release from, and bar to, any and all claims that Plaintiff and Plaintiff's attorney,
27
28

1 Jonathan O. Peña, may have relating to EAJA attorney fees in connection with this
2 action.

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

6 Respectfully submitted,

7
8 Dated: March 6, 2018

9 /s/ Jonathan O. Peña
10 JONATHAN O. PEÑA
11 Attorney for Plaintiff

12 Dated: March 6, 2018

13 PHILLIP A. TALBERT
14 United States Attorney
15 DEBORAH LEE STACHEL
16 Regional Chief Counsel, Region IX
17 Social Security Administration

18 By: /s/ Francesco Benavides*
19 FRANCESCO BENAVIDES
20 Special Assistant U.S. Attorney
21 Attorneys for Defendant
22 (*Permission to use electronic signature
23 obtained via email on 3/6/18).

24 SO ORDERED:

25 Dated: March 8, 2018

26 
27 _____
28 CAROLYN K. DELANEY
UNITED STATES MAGISTRATE JUDGE