

1 MCGREGOR W. SCOTT
United States Attorney
2 DEBORAH LEE STACHEL
Regional Chief Counsel, Region IX
3 Social Security Administration
4 CAROLYN B. CHEN, CSBN 256628
Special Assistant United States Attorney
5 160 Spear Street, Suite 800
San Francisco, California 94105
6 Telephone: (415) 977-8956
7 Facsimile: (415) 744-0134
E-Mail: Carolyn.Chen@ssa.gov

8
9 Attorneys for Defendant

10 **UNITED STATES DISTRICT COURT**
11 **EASTERN DISTRICT OF CALIFORNIA**
12 **SACRAMENTO DIVISION**

13 JOSEF BAILEY,)	Case No.: 2:17-cv-02360-JAM-DMC
14)	
15 Plaintiff,)	STIPULATION AND ORDER APPROVING
16 vs.)	SETTLEMENT OF ATTORNEY FEES
17 ANDREW SAUL, ¹)	PURSUANT TO THE EQUAL ACCESS TO
Commissioner of Social Security,)	JUSTICE ACT, 28 U.S.C. § 2412(d)
18)	
19 Defendant.)	

20
21 IT IS HEREBY STIPULATED by and between the parties, through their undersigned
22 counsel, subject to the Court's approval, that Plaintiff be awarded attorney fees in the amount of
23 THREE THOUSAND FOUR HUNDRED TWENTY-TWO DOLLARS AND THIRTY-NINE
24 CENTS (\$3,422.39) under the Equal Access to Justice Act (EAJA), 28 U.S.C. § 2412(d). This

25 _____
26 ¹ Andrew Saul is now the Commissioner of Social Security and is automatically substituted as a
27 party pursuant to Fed. R. Civ. P. 25(d). *See also* section 205(g) of the Social Security Act, 42
28 U.S.C. § 405(g) (action survives regardless of any change in the person occupying the office of
Commissioner of Social Security).

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

3 After the Court issues an order for EAJA fees to Plaintiff, the government will consider
4 the matter of Plaintiff's assignment of EAJA fees to Plaintiff's attorney. Pursuant to *Astrue v.*
5 *Ratliff*, 560 U.S. 586, 598 (2010), the ability to honor the assignment will depend on whether the
6 fees are subject to any offset allowed under the United States Department of the Treasury's
7 Offset Program. After the order for EAJA fees is entered, the government will determine
8 whether they are subject to any offset.

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

13 This stipulation constitutes a compromise settlement of Plaintiff's request for EAJA
14 attorney fees and expenses, and does not constitute an admission of liability on the part of
15 Defendant under the EAJA or otherwise. Payment of the agreed amount shall constitute a
16 complete release from, and bar to, any and all claims that Plaintiff and/or Plaintiff's counsel,
17 including Jesse Kaplan, may have relating to EAJA attorney fees and expenses in connection
18 with this action.

19 This award is without prejudice to the rights of Plaintiff's counsel and/or Jesse Kaplan to
20 seek Social Security Act attorney fees under 42 U.S.C. § 406(b), subject to the savings clause
21 provisions of the EAJA.

22
23 Respectfully submitted,

24 Dated: July 23, 2019

25 By: /s/ Jesse S. Kaplan
26 JESSE S. KAPLAN
27 Attorney for Plaintiff
(As authorized by email on July 23, 2019)

28 Dated: July 23, 2019

Respectfully submitted,

1 MCGREGOR W. SCOTT
2 United States Attorney
3 DEBORAH LEE STACHEL
4 Regional Chief Counsel, Region IX
5 Social Security Administration

6 By: /s/ Carolyn B. Chen
7 CAROLYN B. CHEN
8 Special Assistant U.S. Attorney

9 Attorneys for Defendant

10 **ORDER**

11 PURSUANT TO STIPULATION, IT IS SO ORDERED that Plaintiff shall be awarded
12 attorney fees in the amount of THREE THOUSAND FOUR HUNDRED TWENTY-TWO
13 DOLLARS AND THIRTY-NINE CENTS (\$3,422.39) as authorized by 28 U.S.C. § 2412(d),
14 subject to the terms of the above-referenced Stipulation.
15

16 Dated: July 24, 2019

17 
18 DENNIS M. COTA
19 UNITED STATES MAGISTRATE JUDGE