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9 Attorneys for Plaintiff
10 Ernest Mastel

11 **UNITED STATES DISTRICT COURT**
12 **EASTERN DISTRICT OF CALIFORNIA**

13 ERNEST MASTEL,) Case No.: 2:17-cv-02390-KJN
14 Plaintiff,)
15 vs.) STIPULATION AND PROPOSED
16 NANCY A. BERRYHILL, Acting) ORDER FOR THE AWARD AND
17 Commissioner of Social Security,) PAYMENT OF ATTORNEY FEES
18 Defendant.) AND EXPENSES PURSUANT TO
19) THE EQUAL ACCESS TO JUSTICE
20) ACT, 28 U.S.C. § 2412(d) AND
21) COSTS PURSUANT TO 28 U.S.C. §
22) 1920
23)
24)
25)
26)

27 TO THE HONORABLE KENDALL J. NEWMAN, MAGISTRATE
28 JUDGE OF THE DISTRICT COURT:

29 IT IS HEREBY STIPULATED, by and between the parties through their
30 undersigned counsel, subject to the approval of the Court, that Ernest Mastel be
31 awarded attorney fees in the amount of Five Thousand dollars (\$5,000.00) and
32 expenses in the amount of zero dollars (\$0.00) under the Equal Access to Justice
33 Act (EAJA), 28 U.S.C. § 2412(d), and costs in the amount of zero dollars (\$0.00)
34 under 28 U.S.C. § 1920. This amount represents compensation for all legal
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1 services rendered on behalf of Plaintiff by counsel in connection with this civil
2 action, in accordance with 28 U.S.C. §§ 1920; 2412(d).

3 After the Court issues an order for EAJA fees to Ernest Mastel, the
4 government will consider the matter of Ernest Mastel's assignment of EAJA fees to
5 Laura E. Krank. The retainer agreement containing the assignment is attached as
6 exhibit 1. Pursuant to *Astrue v. Ratliff*, 130 S.Ct. 2521, 2529 (2010), the ability to
7 honor the assignment will depend on whether the fees are subject to any offset
8 allowed under the United States Department of the Treasury's Offset Program.
9 After the order for EAJA fees is entered, the government will determine whether
10 they are subject to any offset.

11 Fees shall be made payable to Ernest Mastel, but if the Department of the
12 Treasury determines that Ernest Mastel does not owe a federal debt, then the
13 government shall cause the payment of fees, expenses and costs to be made
14 directly to Law Offices of Rohlfing & Kalagian, LLP, pursuant to the assignment
15 executed by Ernest Mastel.¹ Any payments made shall be delivered to Laura E.
16 Krank.

17 This stipulation constitutes a compromise settlement of Ernest Mastel's
18 request for EAJA attorney fees, and does not constitute an admission of liability on
19 the part of Defendant under the EAJA or otherwise. Payment of the agreed amount
20 shall constitute a complete release from, and bar to, any and all claims that Ernest
21 Mastel and/or Laura E. Krank including Law Offices of Rohlfing & Kalagian, LLP
22 may have relating to EAJA attorney fees in connection with this action.

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25 ¹ The parties do not stipulate whether counsel for the plaintiff has a cognizable lien
26 under federal law against the recovery of EAJA fees that survives the Treasury
Offset Program.

1 This award is without prejudice to the rights of Laura E. Krank and/or the
2 Law Offices of Rohlfing & Kalagian, LLP to seek Social Security Act attorney
3 fees under 42 U.S.C. § 406(b), subject to the savings clause provisions of the
4 EAJA.

5 DATE: April 19, 2019

Respectfully submitted,

6 ROHLFING & KALAGIAN, LLP

7 */s/ Laura E. Krank*

8 BY: _____

Laura E. Krank
Attorney for plaintiff Ernest Mastel

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10 DATED: April 19, 2019

MCGREGOR W. SCOTT
United States Attorney

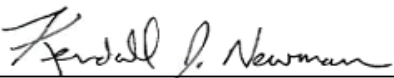
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12 */s/ Daniel P. Talbert*

13 _____
14 DANIEL P. TALBERT
Special Assistant United States Attorney
Attorneys for Defendant
15 NANCY A. BERRYHILL, Acting Commissioner
16 of Social Security (Per e-mail authorization)

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19 **ORDER**

20 Approved and so ordered:

21 Dated: May 2, 2019

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KENDALL J. NEWMAN
UNITED STATES MAGISTRATE JUDGE

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