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

13 FEDOR KAPITULA,  
 14 Plaintiff,  
 15 vs.  
 16 ANDREW SAUL,  
 17 Commissioner of Social Security,  
 18 Defendant.  
 19 \_\_\_\_\_

) Case No.: 2:19-cv-00731-EFB  
 )  
 ) **STIPULATION AND [PROPOSED]**  
 ) **ORDER 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**

1 IT IS HEREBY STIPULATED by and between the parties through their undersigned  
2 counsel, subject to the approval of the Court, that Plaintiff be awarded attorney fees and expenses  
3 in the amount of FOUR THOUSAND SEVEN HUNDRED THIRTY-EIGHT dollars and  
4 NINETY-FIVE cents (\$4,738.95) under the Equal Access to Justice Act (EAJA), 28 U.S.C.  
5 § 2412(d) AND FOUR HUNDRED dollars (\$400.00) in costs under 28 U.S.C. § 1920. This  
6 amount represents compensation for all legal services rendered on behalf of Plaintiff by counsel  
7 in connection with this civil action, in accordance with 28 U.S.C. §§ 1920; 2412(d).

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

14 Fees shall be made payable to Plaintiff, but if the Department of the Treasury determines  
15 that Plaintiff does not owe a federal debt, then the government shall cause the payment of fees,  
16 expenses and costs to be made directly to counsel, pursuant to the assignment executed by  
17 Plaintiff. Any payments made shall be delivered to counsel.

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

23 This award is without prejudice to the rights of counsel to seek Social Security Act  
24 attorney fees under 42 U.S.C. § 406(b), subject to the savings clause provisions of the EAJA.

25 This stipulation also serves as notice that Plaintiff withdraws his Motion for Attorney  
26 Fees under the Equal Access to Justice Act (Dkt. 20).

1 Date: December 31, 2020

JESSE S. KAPLAN

2 By: /s/ Asim Modi for Jesse S. Kaplan\*  
3 JESSE S. KAPLAN  
4 \*Authorized by email on December 31, 2020  
Attorneys for Plaintiff

5 Date: December 31, 2020

6 MCGREGOR W. SCOTT  
7 United States Attorney  
8 DEBORAH LEE STACHEL  
Regional Chief Counsel, Region IX

9 By: /s/ Asim H. Modi  
10 ASIM H. MODI  
11 Special Assistant United States Attorney  
12 Attorneys for Defendant

13 ORDER

14 APPROVED AND SO ORDERED. The Clerk of Court is directed to terminate ECF No.  
15 20.

16 DATED: January 6, 2021.

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18 EDMUND F. BRENNAN  
19 UNITED STATES MAGISTRATE JUDGE  
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