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2 **S A C K E T T**
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11 HPS/as

12 UNITED STATES DISTRICT COURT
13 EASTERN DISTRICT OF CALIFORNIA
14 SACRAMENTO DIVISION

15 TAYA J. MILLER,

16 Plaintiff,

17 v.

18 KILOLO KIJAKAZI,
19 Acting Commissioner of Social Security,

20 Defendant.

Case No.: 2:22-cv-00798-JDP

STIPULATION AND ~~PROPOSED~~
ORDER FOR THE AWARD AND
PAYMENT OF ATTORNEY FEES
PURSUANT TO THE EQUAL
ACCESS TO JUSTICE ACT, 28
U.S.C. § 2412(d)

21 On September 25, 2023, this Court issued an order reversing the final decision of the
22 Defendant, Kilolo Kijakazi, the Acting Commissioner of Social Security (Commissioner), with a
23 remand a rehearing, 42 U.S.C. § 405(g) (sentence four); judgment was entered.

24 In the interest of administrative and judicial economy, the parties have agreed to stipulate
25 that an award of FOUR THOUSAND SIX HUNDRED DOLLARS AND ZERO CENTS
26 (\$4,600.00) in attorney fees under the Equal Access to Justice Act (EAJA), 28 U.S.C. § 2412(d),
27 is reasonable. This award is without prejudice to Plaintiff’s right to seek attorney’s fees under
28 section 206(b) of the Social Security Act, 42 U.S.C. § 406(b), subject to the offset provisions of

1 the EAJA. However, this award shall constitute a complete release from and bar to any claims
2 Plaintiff may have relating to EAJA fees and costs. Further, such award shall not be used as
3 precedent in any future cases, nor be construed as a concession by the Commissioner that the
4 original administrative decision denying benefits to Plaintiff was not substantially justified.

5 After the Court issues an order for EAJA fees to Plaintiff, the Government will consider
6 the matter of Plaintiff's assignment of EAJA fees to Harvey P. Sackett ("Counsel"). Pursuant to
7 *Astrue v. Ratliff*, 560 U.S. 586 (2010), the ability to honor an assignment will depend on whether
8 the fees are subject to any offset allowed under the United States Department of the Treasury's
9 Offset Program. After the order for EAJA is entered, the Government will determine whether
10 they are subject to offset. Fees shall be made payable to Plaintiff, but if the Department of
11 Treasury determines Plaintiff does not owe a federal debt, then the Government shall cause the
12 payment of fees, expenses, and costs to be made payable directly to Counsel, pursuant to the
13 assignment executed by Plaintiff. Any payments made shall be delivered and made payable to
14 Counsel.

15 Accordingly, Defendant agrees to pay Plaintiff \$4,600.00 in attorney's fees.

16 All parties whose signature lines appear in this document have consented to its filing.
17 This award is without prejudice to the rights of Sackett and Associates and/or Harvey P. Sackett
18 to seek Social Security Act attorney fees under 42 U.S.C. § 406(b), subject to the savings clause
19 provisions of the EAJA.

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Dated: November 13, 2023

SACKETT AND ASSOCIATES

By: /s/ HARVEY P. SACKETT
HARVEY P. SACKETT
Attorney for Plaintiff
TAYA J. MILLER

Dated: November 15, 2023

PHILLIP A. TALBERT
United States Attorney

By: /s/NOAH SCHABACKER
NOAH SCHABACKER
Special Assistant United States Attorney
Attorney for Defendant
[*As authorized by email on 11/13/23]

ORDER

IT IS SO ORDERED.

Dated: November 15, 2023



JEREMY D. PETERSON
UNITED STATES MAGISTRATE JUDGE