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

13 JASON KIRK,)	Case No.: 2:23-cv-01966-EFB
14 Plaintiff,)	STIPULATION FOR THE AWARD AND
15 vs.)	PAYMENT OF ATTORNEY FEES
16)	PURSUANT TO THE EQUAL ACCESS TO
17 MARTIN O'MALLEY,)	JUSTICE ACT, 28 U.S.C. § 2412(d); ORDER
Commissioner of Social Security,)	
18 Defendant.)	

19 IT IS HEREBY STIPULATED by and between the parties through their undersigned
 20 counsel, subject to the approval of the Court, that Plaintiff be awarded attorney fees in the amount
 21 \$8,200.00 (EIGHT THOUSAND TWO HUNDRED dollars) under the Equal Access to Justice Act
 22 (EAJA), 28 U.S.C. § 2412(d). This amount represents compensation for all legal services rendered
 23 on behalf of Plaintiff by counsel in connection with this civil action, in accordance with 28 U.S.C. §§
 24 1920; 2412(d).

25 After the Court issues an order for EAJA fees to Plaintiff, the government will consider the
 26 matter of Plaintiff's assignment of EAJA fees to counsel, if any. Pursuant to *Astrue v. Ratliff*, 560
 27 U.S. 586, 598, 130 S.Ct. 2521, 177 L.Ed.2d 91 (2010), the ability to honor any assignment will
 28 depend on whether the fees are subject to any offset allowed under the United States Department of

1 the Treasury's Offset Program. After the order for EAJA fees is entered, the government will
2 determine whether they are subject to any offset.

3 Fees shall be made payable to Plaintiff, but if the Department of the Treasury determines that
4 Plaintiff does not owe a federal debt, then the government shall cause the payment of fees, expenses,
5 and costs to be made directly to counsel, Francesco Benavides, pursuant to the assignment executed
6 by Plaintiff.

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

12 This award is without prejudice to the rights of counsel and/or counsel's firm to seek Social
13 Security Act attorney fees under 42 U.S.C. § 406(b), subject to the savings clause provisions of the
14 EAJA.

15 Respectfully submitted,

16 Date: August 15, 2024

/s/ Francesco P. Benavides
FRANCESCO P. BENAVIDES
(as authorized by email)
Attorney for Plaintiff

19 Date: August 15, 2024

PHILLIP A. TALBERT
United States Attorney
MATHEW W. PILE
Associate General Counsel
Social Security Administration

22 By: /s/ James Ki
23 JAMES KI
24 Special Assistant United States Attorney
25 Social Security Administration
26 Attorneys for Defendant
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ORDER

Based upon the parties' Stipulation for the Award and Payment of Equal Access to Justice Act Fees, **IT IS ORDERED** that fees in the amount of \$8,200.00 as authorized by 28 U.S.C. § 2412, be awarded subject to the terms of the Stipulation.

DATED: August 29, 2024


EDMUND F. BRENNAN
UNITED STATES MAGISTRATE JUDGE

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