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1 MELINDA L. HAAG
 2 United States Attorney
 3 LUCILLE GONZALES MEIS
 4 Regional Chief Counsel, Region IX
 5 TIMOTHY R. BOLIN, SBN CA 259511
 6 Special Assistant United States Attorney

333 Market Street, Suite 1500
 San Francisco, CA 94105
 Telephone: 415-977-8982
 Facsimile: 415-744-0134
 Email: timothy.bolin@ssa.gov

9 Attorneys for Defendant
 10 Michael J. Astrue, Commissioner of Social Security

11 **UNITED STATES DISTRICT COURT**
 12 **NORTHERN DISTRICT OF CALIFORNIA**
 13 **SAN FRANCISCO DIVISION**

| | | |
|-------------------------------------|---|---|
| 14 RICHARD A. WYANT |) | Case No. 3:09-cv-01723-RS |
| |) | |
| 15 Plaintiff, |) | STIPULATION AND PROPOSED ORDER FOR |
| |) | THE AWARD OF ATTORNEY’S FEES |
| 16 v. |) | PURSUANT TO THE EQUAL ACCESS TO |
| |) | JUSTICE ACT, 28 U.S.C. § 2412(d) |
| 17 MICHAEL J. ASTRUE, |) | |
| 18 Commissioner of Social Security, |) | |
| |) | |
| 19 Defendant. |) | |
| 20 |) | |

21 THE PARTIES HEREBY STIPULATE, through their undersigned counsel, subject to
 22 the approval of the Court, that Plaintiff be awarded attorney fees under the Equal Access to
 23 Justice Act (EAJA), 28 U.S.C. § 2412(d), in the amount of SIX THOUSAND DOLLARS
 24 (\$6,000.00). This amount represents compensation for all legal services that counsel rendered on
 25 Plaintiff’s behalf in connection with this civil action, in accordance with 28 U.S.C. § 2412(d).

26 After the Court issues an order for EAJA fees to Plaintiff, the government will consider
 27 the matter of Plaintiff’s assignment of EAJA fees to Plaintiff’s attorney. Pursuant to *Astrue v.*
 28 *Ratliff*, - S.Ct. - , 2010 WL 2346547 (U.S. June 14, 2010), the ability to honor the assignment

1 will depend on whether the fees are subject to any offset allowed under the United States
2 Department of the Treasury's Offset Program. After the order for EAJA fees is entered, the
3 government will determine whether they are subject to any offset.

4 Fees shall be made payable to Plaintiff, but if the Department of the Treasury determines
5 that Plaintiff does not owe a federal debt, then the government shall cause the payment of fees,
6 expenses, and costs to be made directly to Plaintiff's counsel, Harvey P. Sackett, pursuant to the
7 assignment executed by Plaintiff. Any payments made shall be delivered to Plaintiff's counsel.

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

13 This award is without prejudice to the rights of Plaintiff's counsel to seek Social Security
14 Act attorney fees under 42 U.S.C. § 406, subject to the provisions of the EAJA.

15
16 Respectfully submitted,

17 Date: *August 17, 2010*

18 By: SACKETT AND ASSOCIATES
19 /s/ *Harvey P. Sackett**
20 HARVEY P. SACKETT
21 *By email authorization

22 Attorney for Plaintiff

23 Dated: *August 17, 2010*

24 MELINDA L. HAAG
25 United States Attorney
26 LUCILLE GONZALES MEIS
27 Social Security Administration
28 Regional Chief Counsel, Region IX

By: /s/ *Timothy R. Bolin*
TIMOTHY R. BOLIN
Special Assistant United States Attorney
Attorneys for Defendant

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ORDER

THE COURT ORDERS the award of EAJA fees in the amount of SIX THOUSAND DOLLARS (\$6,000.00), subject to the terms of the foregoing stipulation.

Dated: 8/23/10



HONORABLE RICHARD SEEBORG
United States District Court Judge