

1 MELINDA L. HAAG, CSBN 132612  
 United States Attorney  
 2 DONNA L. CALVERT, SBN IL 6191786  
 Regional Chief Counsel, Region IX  
 3 Social Security Administration  
 TOVA WOLKING, CSBN 259782  
 4 Special Assistant United States Attorney  
 160 Spear Street, Suite 800  
 5 San Francisco, California 94105  
 Telephone: (415) 977-8980  
 6 Facsimile: (415) 744-0134  
 7 E-Mail: tova.wolking@ssa.gov

8 Attorneys for Defendant

9  
 10 UNITED STATES DISTRICT COURT  
 11 NORTHERN DISTRICT OF CALIFORNIA  
 12 SAN FRANCISCO DIVISION

13 ANNE M. SMITH,	)	Case No. 3:14-cv-01413-EMC
	)	
14 Plaintiff,	)	STIPULATION AND <del>PROPOSED</del> ORDER
15 v.	)	FOR THE AWARD AND PAYMENT OF
	)	ATTORNEY FEES AND EXPENSES
16 CAROLYN W. COLVIN,	)	PURSUANT TO THE EQUAL ACCESS TO
Acting Commissioner of Social Security,	)	JUSTICE ACT, 28 U.S.C. § 2412(d), AND
17	)	COSTS PURSUANT TO 28 U.S.C. § 1920
18 Defendant.	)	
	)	

19  
 20 IT IS HEREBY STIPULATED by and between the parties through their undersigned  
 21 counsel, subject to the approval of the Court, that Plaintiff be awarded attorney fees and expenses  
 22 in the amount of six-thousand, one-hundred dollars (\$6,100.00) under the Equal Access to Justice  
 23 Act (EAJA), 28 U.S.C. § 2412(d), and costs in the amount of four hundred dollars (\$400.00)  
 24 under 28 U.S.C. § 1920. This amount represents compensation for all legal services rendered on  
 25 behalf of Plaintiff by counsel in connection with this civil action, in accordance with 28 U.S.C. §§  
 26 1920; 2412(d).

27 After the Court issues an order for EAJA fees to Plaintiff, the government will consider the  
 28 matter of Plaintiff's assignment of EAJA fees to David J. Linden. Pursuant to *Astrue v. Ratliff*,

1 560 U.S. 586, 598 (2010), the ability to honor the assignment will depend on whether the fees are  
2 subject to any offset allowed under the United States Department of the Treasury's Offset  
3 Program. After the order for EAJA fees is entered, the government will determine whether they  
4 are subject to any offset.

5 Fees shall be made payable to Plaintiff, but if the Department of the Treasury determines  
6 that Plaintiff does not owe a federal debt, then the government shall cause the payment of fees,  
7 expenses and costs to be made directly to David J. Linden, pursuant to the assignment executed by  
8 Plaintiff. Any payments made shall be delivered to David J. Linden.

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

14 This award is without prejudice to the rights of David J. Linden and his firm and/or Ralph  
15 Wilborn to seek Social Security Act attorney fees under 42 U.S.C. § 406(b), subject to the savings  
16 clause provisions of the EAJA.

17 Respectfully submitted,

18 DATE: July 13, 2015

By: /s/ David J. Linden\*  
DAVID J. LINDEN  
Attorney for Plaintiff  
\*By email authorization on 7/10/15

21 DATE: July 13, 2015

MELINDA L. HAAG  
United States Attorney

23 By: /s/ Tova D. Wolking  
TOVA D. WOLKING  
Special Assistant United States Attorney  
Attorneys for Defendant

26 IT IS SO ORDERED.

**ORDER**

27 DATED: July 16, 2015

28 EDWARD M. CHEN  
UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA

