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2 **S A C K E T T**
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10 Attorney for Plaintiff

11 /as

12 UNITED STATES DISTRICT COURT
13
14 NORTHERN DISTRICT OF CALIFORNIA

15 DARNELL C. WILLIAMS,) Case No. 4:16-cv-01105-KAW
16)

17 Plaintiff,) JOINT STIPULATION TO AWARD
18) PLAINTIFF ATTORNEY FEES
19) [28 U.S.C. § 2412(d)]

20 v.)

21 NANCY A. BERRYHILL,¹)

22 Acting Commissioner of)
23 Social Security,)

24 Defendant.)

25 _____
26 On September 18, 2017 this Court issued an order reversing the final decision of the
27 Defendant, Nancy A. Berryhill, the Acting Commissioner of Social Security (Commissioner),
28 with a remand for a rehearing. Judgment for Plaintiff was entered on the same day.

_____ ¹ Nancy A. Berryhill became the Acting Commissioner of Social Security on January 20, 2017. Pursuant to Rule 25(d)(1) of the Federal Rules of Civil Procedure, Nancy A. Berryhill should be substituted, therefore, for Acting Commissioner Carolyn W. Colvin as Defendant in this suit. No further action need be taken to continue this suit by reason of the last sentence of section 205(g) of the Social Security Act, 42 U.S.C. § 405(g).

1 In the interest of administrative and judicial economy, the parties have agreed to stipulate
2 that an award of FIVE THOUSAND, SEVEN HUNDRED DOLLARS (\$5,700.00) in attorney
3 fees under the Equal Access to Justice Act (EAJA), 28 U.S.C. § 2412(d) is reasonable in this
4 case. This award is without prejudice to Plaintiff's right to seek attorney's fees under section
5 206(b) of the Social Security Act, 42 U.S.C. § 406(b), subject to the offset provisions of the
6 EAJA. However, this award shall constitute a complete release from and bar to any and all
7 claims Plaintiff may have relating to EAJA fees and costs in connection with this action. Further,
8 such award shall not be used as precedent in any future cases, nor be construed as a concession
9 by the Commissioner that the original administrative decision denying benefits to Plaintiff was
10 not substantially justified.

11 Under Astrue v. Ratliff, 560 U.S. 586 (2010), EAJA fees awarded by this Court belong to
12 the Plaintiff and are subject to offset under the Treasury Offset Program (31 U.S.C. §
13 3716(c)(3)(B) (2006)). This Court should therefore order the EAJA fees to be paid to Plaintiff.
14 The Commissioner recognizes that Plaintiff assigned his right to EAJA fees to his attorney. If,
15 after receiving the Court's EAJA fee order, the Commissioner (1) determines that Plaintiff does
16 not owe a debt that is subject to offset under the Treasury Offset Program; and (2) agrees to
17 waive the requirements of the Anti-Assignment Act, then the EAJA fees will be made payable to
18 Plaintiff's attorney. However, if there is a debt owed under the Treasury Offset Program, the
19 Commissioner does not waive the requirements of the Anti-Assignment Act, and the remaining
20 EAJA fees after offset will be paid by a check made out to Plaintiff but delivered to Plaintiff's
21 attorney.

22 Accordingly, Defendant agrees to pay Plaintiff \$5,700.00 in attorney's fees.

23 All parties whose signature lines appear in this document have consented to its filing.

24
25 Dated: December 14, 2017

By: s/ Harvey P. Sackett
HARVEY P. SACKETT
Attorney for Plaintiff
DARNELL C. WILLIAMS

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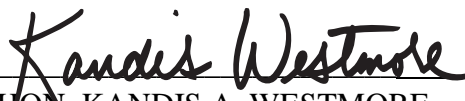
BRIAN STRETCH
United States Attorney
DEBORAH L. STACHEL
Regional Chief Counsel, region IX
Social Security Administration

Dated: December 14, 2017

By: s/ Richard Rodriguez
RICHARD RODRIGUEZ
Special Assistant United States Attorney
(as authorized via e-mail 12/14/17)
Attorneys for Defendant

IT IS SO ORDERED.

Dated: 12/19/17



HON. KANDIS A. WESTMORE
United States Magistrate Judge