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8 Attorney for Defendant

9  
 10 UNITED STATES DISTRICT COURT  
 NORTHERN DISTRICT OF CALIFORNIA

<p>11 MICHAEL A. BRISCO,          12 Plaintiff,          13 v.          14 NANCY A. BERRYHILL,          15 Acting Commissioner of Social Security,<sup>1</sup>          16 Defendant.</p>	<p>CIVIL NO. 4:16-CV-1843-KAW           STIPULATION TO PLAINTIFF’S AWARD          OF ATTORNEY’S FEES AND COSTS AND  <del>PROPOSED ORDER</del></p>
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 20 <sup>1</sup> Nancy A. Berryhill is now the Acting Commissioner of Social Security. Pursuant to Rule 25(d)  
 of the Federal Rules of Civil Procedure, Nancy A. Berryhill should be substituted for Acting  
 Commissioner Carolyn W. Colvin as the defendant in this suit. No further action needs to be  
 21 taken to continue this suit by reason of the last sentence of section 205(g) of the Social Security  
 Action, 42 U.S.C. §405(g).”

1 IT IS HEREBY STIPULATED by and between the parties, through their undersigned  
2 counsel, subject to the approval of the Court, that Plaintiff's counsel, as Plaintiff's assignee, be  
3 awarded attorney fees under the Equal Access to Justice Act (EAJA) in the amount of SIX  
4 THOUSAND FIVE HUNDRED DOLLARS (\$6,500.00). This amount represents  
5 compensation for all legal services rendered on behalf of Plaintiff by counsel in connection  
6 with this civil action, in accordance with 28 U.S.C. §§ 1920, 2412(d).

7 This stipulation constitutes a compromise settlement of Plaintiff's request for EAJA  
8 attorney fees, and does not constitute an admission of liability on the part of Defendant under  
9 the EAJA. Payment of six thousand five hundred dollars (\$6,500.00) in EAJA attorney fees  
10 shall constitute a complete release from and bar to any and all claims Plaintiff may have  
11 relating to EAJA fees, expenses, and/or costs in connection with this action.

12 After this Court issues an order for EAJA fees to Plaintiff, the Commissioner will  
13 consider the matter of Plaintiff's assignment of EAJA fees to Plaintiff's attorney. The ability to  
14 honor the assignment will depend on whether the fees are subject to any offset allowed under  
15 the United States Department of the Treasury's Offset Program and the Commissioner will  
16 determine whether the fees are subject to an offset. See *Astrue v. Ratliff*, 560 U.S. 586, 598  
17 (2010). Any payment shall be made payable to Plaintiff, but if the Department of the Treasury  
18 determines that Plaintiff does not owe a Federal debt, then the Commissioner shall cause the  
19 payment of fees and costs to be made directly to Plaintiff's counsel pursuant to the assignment  
20 executed by Mr. Brisco, attached.

21 This award is without prejudice to the rights of Plaintiff's counsel to seek Social  
Security Act attorney fees under 42 U.S.C. § 406(b), subject to the savings clause provisions of  
the EAJA.

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1 Dated: December 12, 2017

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/s/ Michael Wolchansky  
MICHAEL WOLCHANSKY  
Attorney for Plaintiff

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/s/Ben A. Porter\*  
BEN A. PORTER  
\* by email authorization 12/12 /17  
Attorney for Defendant

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Based upon the parties' Stipulation for the Award and Payment of Equal Access to Justice Act Fees And Costs, IT IS ORDERED that Plaintiff shall be awarded attorney fees under the EAJA in the amount of six thousand five hundred dollars and zero cents (\$6,500.00), as authorized by 28 U.S.C. §§ 1920, 2412(d), subject to the terms of the above-referenced Stipulation.

Dated: 12/13/17



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THE HONORABLE KANDIS A. WESTMORE  
UNITED STATES MAGISTRATE JUDGE  
NORTHERN DISTRICT OF CALIFORNIA



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**FEE AGREEMENT AND ASSIGNMENT OF FEES  
UNDER THE EQUAL ACCESS TO JUSTICE ACT**

I, Michael Anthony Brisco, with the Social Security number of -3673, hereby retain the Homeless Action Center to represent me in federal court review of my SSI/Social Security claim for benefits under the Social Security Act. I understand that this fee agreement and assignment applies only to work on my behalf in the Northern District of California. I understand more than one attorney at the Homeless Action Center may work on my case.

I understand that the Equal Access to Justice Act (5 U.S.C 504) provides for an award of reasonable attorney fees and expenses to eligible prevailing parties. If federal court review of my case results in a favorable decision to me, either by having my case remanded or by obtaining benefits outright by court order, I understand that my attorney, on behalf of the Homeless Action Center, may apply for statutory fees and expenses under the Equal Access to Justice Act ("EAJA," 5 U.S.C. 504).

I hereby assign any EAJA attorney fees and expenses to the Homeless Action Center, whether or not I ever receive benefits under the Social Security Act. I agree any EAJA fees and expenses may be paid directly to the Homeless Action Center, and I authorize the Homeless Action Center to endorse my name on any check paying EAJA fees and expenses.

This agreement and assignment only pertains to EAJA fees and expenses for work on my behalf in federal court, and is in addition to the agreement previously signed for representation before the Social Security Administration. This agreement and assignment does not affect the Homeless Action Center's waiver of any non-EAJA fee under sections 206 and 1631(d)(2) of the Social Security Act.

Client

Attorney

4/8/16

Date

4/8/16

Date