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9 Attorneys for Plaintiff
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11 **UNITED STATES DISTRICT COURT**
 12 **NORTHERN DISTRICT OF CALIFORNIA**

<p>13 TINA JOHNSON,</p> <p>14</p> <p>15 Plaintiff,</p> <p>16 vs.</p> <p>17 MICHAEL J. ASTRUE,</p> <p>18 Commissioner of Social Security,</p> <p>19</p> <p>20 Defendant.</p>	<p>) Case No.: C-08-02558 RMW</p> <p>) STIPULATION AND ORDER</p> <p>) FOR THE AWARD AND</p> <p>) PAYMENT OF ATTORNEY</p> <p>) FEES AND EXPENSES PURSUANT</p> <p>) TO THE EQUAL ACCESS TO</p> <p>) JUSTICE ACT, 28 U.S.C. § 2412(d)</p> <p>)</p> <p>)</p> <p>)</p>
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21 TO THE HONORABLE RONALD M. WHYTE, MAGISTRATE JUDGE
 22 OF THE DISTRICT COURT:

23 IT IS HEREBY STIPULATED by and between the parties through their
 24 undersigned counsel, subject to the approval of the Court, that Tina Johnson be
 25 awarded attorney fees and expenses in the amount of TWO THOUSAND FIVE
 26 HUNDRED dollars (\$2,500.00) under the Equal Access to Justice Act (EAJA), 28
 U.S.C. § 2412(d). This amount represents compensation for all legal services
 rendered on behalf of Plaintiff by counsel in connection with this civil action, in
 accordance with 28 U.S.C. §§ 1920; 2412(d).

1 After the Court issues an order for EAJA fees to Tina Johnson, the
2 government will consider the matter of Tina Johnson's assignment of EAJA fees to
3 Marc V. Kalagian. Pursuant to *Astrue v. Ratliff*, ___ U.S. ___, 2010 WL 2346547
4 (June 14, 2010), the ability to honor the assignment will depend on whether the
5 fees are subject to any offset allowed under the United States Department of the
6 Treasury's Offset Program. After the order for EAJA fees is entered, the
7 government will determine whether they are subject to any offset.

8 Fees shall be made payable to Tina Johnson, but if the Department of the
9 Treasury determines that Tina Johnson does not owe a federal debt, then the
10 government shall cause the payment of fees, expenses and costs to be made
11 directly to Law Offices of Rohlfig & Kalagian, LLP, pursuant to the assignment
12 executed by Tina Johnson. Any payments made shall be delivered to Marc V.
13 Kalagian.

14 This stipulation constitutes a compromise settlement of Tina Johnson's
15 request for EAJA attorney fees, and does not constitute an admission of liability on
16 the part of Defendant under the EAJA. Payment of the agreed amount shall
17 constitute a complete release from, and bar to, any and all claims that Tina Johnson
18 and/or Marc V. Kalagian including Law Offices of Rohlfig & Kalagian, LLP may
19 have relating to EAJA attorney fees in connection with this action.

20 Marc V. Kalagian reserves the right to contend that any non-payment caused
21 by the collection of a federal debt owed by Tina Johnson violates 31 C.F.R. §
22 285.5(e)(5) and *Morrison v. C.I.R.*, 565 F.3d 658, 667 (9th Cir. 2009). Nothing in
23 this stipulation shall be construed as an admission by Marc V. Kalagian that the
24 Government has the right or authority to offset the fees due and payable pursuant
25 to this stipulation.

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1 This award is without prejudice to the rights of Marc V. Kalagian and/or
2 Rohlfing & Kalagian, LLP to seek Social Security Act attorney fees under 42
3 U.S.C. § 406(b), subject to the savings clause provisions of the EAJA.
4 DATE: April 27, 2011 Respectfully submitted,

5 ROHLFING & KALAGIAN, LLP

6 */s/ Marc V. Kalagian*

7 BY: _____
8 Marc V. Kalagian
9 Attorney for plaintiff Tina Johnson

10 DATED: April 27, 2011

11 BENJAMIN B. WAGNER
12 United States Attorney

13 */s/ Armand D. Roth*

14 _____
15 Armand D. Roth
16 Special Assistant United States Attorney
17 Attorneys for Defendant Michael J. Astrue,
18 Commissioner of Social Security
19 (Per e-mail authorization)

20 PURSUANT TO STIPULATION, IT IS SO ORDERED that fees and expenses in
21 the amount of \$2,500.00 as authorized by 28 U.S.C. § 2412).

22 Dated: 05/17/2011

23 *Ronald M. Whyte*
24 THE HONORABLE RONALD M. WHYTE
25 United States Magistrate Judge
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