

1 MELINDA HAAG, CSBN 132612  
 United States Attorney  
 2 DONNA L. CALVERT, SBN IL 619786  
 Acting Regional Chief Counsel, Region IX  
 3 Social Security Administration  
 ELIZABETH BARRY, CSBN 203314  
 4 Special Assistant United States Attorney



5 160 Spear Street, Suite 800  
 San Francisco, California 94105  
 6 Telephone: (415) 977-8972  
 Facsimile: (415) 744-0134  
 7 Email: Elizabeth.Barry@ssa.gov

8 Attorneys for Defendant

9 UNITED STATES DISTRICT COURT  
 10 NORTHERN DISTRICT OF CALIFORNIA  
 SAN JOSE DIVISION

11 ERNEST ORTIZ, )  
 12 Plaintiff, )  
 13 v. )  
 14 CAROLYN W. COLVIN, )  
 Commissioner of )  
 15 Social Security, )  
 16 Defendant. )

Case No. CIV-5:10-cv-01632-RMW

STIPULATION FOR THE AWARD AND  
 PAYMENT OF ATTORNEY FEES PURSUANT  
 TO THE EQUAL ACCESS TO JUSTICE ACT,  
 28 U.S.C. § 2412(d)

17 IT IS HEREBY STIPULATED by and between the parties through their undersigned counsel,<sup>1</sup>  
 18 subject to the approval of the Court, that Ernest Ortiz will be awarded attorney fees in the amount of  
 19 three-thousand nine-hundred dollars (\$3,900.00) under the Equal Access to Justice Act (EAJA), 28  
 20 U.S.C. § 2412(d). This amount represents compensation for all legal services rendered on behalf of  
 21 Ernest Ortiz by counsel in connection with this civil action, in accordance with 28 U.S.C. § 2412(d).  
 22

23 After the Court issues an order for EAJA fees to Ernest Ortiz, the Defendant will consider any  
 24 assignment of EAJA fees to Tom Weathered. Pursuant to *Astrue v. Ratliff*, 130 S.Ct. 2521, 2252-2253  
 25 (2010), the ability to honor any such assignment will depend on whether the fees are subject to any  
 26 offset allowed under the United States Department of the Treasury's Offset Program. After the order for

27 <sup>1</sup> Carolyn W. Colvin became the Acting Commissioner of Social Security on February 14, 2013.  
 28 Pursuant to Rule 25(d) of the Federal Rules of Civil Procedure, Carolyn W. Colvin should be substituted  
 for Michael J. Astrue as the 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 EAJA fees is entered, the Defendant will determine whether they are subject to any offset.

2 Fees shall be made payable to Ernest Ortiz, but if the Department of the Treasury determines that  
3 Ernest Ortiz does not owe a federal debt, then the government shall cause the payment of fees to be  
4 made directly to the Tom Weathered, pursuant to any assignment executed by Ernest Ortiz. Any  
5 payments made shall be delivered to Tom Weathered.

6 This stipulation constitutes a compromise settlement of Ernest Ortiz's request for EAJA attorney  
7 fees and does not constitute an admission of liability on the part of Defendant under the EAJA. Payment  
8 of the agreed amount shall constitute a complete release from, and bar to, any and all claims that Ernest  
9 Ortiz and/or Tom Weathered may have relating to EAJA attorney fees in connection with this action.  
10 Tom Weathered volunteers not to seek attorney fees under 42 U.S.C. § 406 of the Social Security Act.

11  
12 Respectfully submitted,

13 Dated: May 9, 2014

/s/ Tom Weathered  
(as authorized via e-mail)  
TOM WEATHERED  
Attorney for Plaintiff

MELINDA L. HAAG  
United States Attorney


14  
15  
16  
17 Dated: May 9, 2014

By /s/ Elizabeth Barry  
ELIZABETH BARRY  
Special Assistant U.S. Attorney  
Attorneys for Defendant

18  
19  
20 ORDER

21 PURSUANT TO STIPULATION, IT IS SO ORDERED.

22  
23 DATED: \_\_\_\_\_

  
RONALD M. WHYTE  
UNITED STATES DISTRICT JUDGE