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UNITED STATES DISTRICT COURT

EASTERN DISTRICT OF CALIFORNIA

HARLEY RICHARD LEIGHTY, Plaintiff, vs. MARTIN O'MALLEY, Commissioner of Social Security, Defendant.	Case No.: 2:22-cv-01598-JDP STIPULATION FOR THE AWARD AND PAYMENT OF ATTORNEY FEES AND EXPENSES PURSUANT TO THE EQUAL ACCESS TO JUSTICE ACT, 28 U.S.C. § 2412(d), AND COSTS PURSUANT TO 28 U.S.C. § 1920; ~~[PROPOSED]~~ ORDER

IT IS HEREBY STIPULATED by and between the parties through their undersigned counsel, subject to the approval of the Court, that Plaintiff be awarded attorney fees and expenses in the amount of $11,500.00 (ELEVEN THOUSAND FIVE-HUNDRED dollars and ZERO cents) under the Equal Access to Justice Act (EAJA), 28 U.S.C. § 2412(d), and costs in the amount of $402.00 (FOUR HUNDRED AND TWO dollars and ZERO cents) to be paid separately from the Judgment Fund, pursuant to 28 U.S.C. § 1920. 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).

After the Court issues an order for EAJA fees to Plaintiff, the government will consider the matter of Plaintiff's assignment of EAJA fees to counsel, if any. Pursuant to *Astrue v. Ratliff*,

AUTHENTICATED U.S. GOVERNMENT INFORMATION GPO

560 U.S. 586, 598, 130 S.Ct. 2521, 177 L.Ed.2d 91 (2010), the ability to honor any assignment will depend on whether the fees are subject to any offset allowed under the United States Department of the Treasury's Offset Program. After the order for EAJA fees is entered, the government will determine whether they are subject to any offset.

Fees shall be made payable to Plaintiff, but if the Department of the Treasury determines that Plaintiff does not owe a federal debt, then the government shall cause the payment of fees, expenses and costs to be made directly to counsel, pursuant to the assignment executed by Plaintiff. Any payments made shall be delivered to counsel. Payments may be made by electronic fund transfer (EFT) or by check.

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

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

Respectfully submitted,

Date: May 20, 2024

/s/ *David Linden**
DAVID LINDEN
(as authorized by email on May 17, 2024)
Attorney for Plaintiff

Date: May 20, 2024

PHILLIP A. TALBERT
United States Attorney
MATHEW W. PILE
Associate General Counsel
Social Security Administration

/s/ Jennifer C. Forsyth
JENNIFER C. FORSYTH
Special Assistant United States Attorney
Social Security Administration
Attorney for Defendant

ORDER

Based upon the parties' Stipulation for the Award and Payment of Equal Access to Justice Act Fees, Costs, and Expenses, **IT IS ORDERED** that fees and expenses in the amount of $11,500.00 (ELEVEN THOUSAND FIVE-HUNDRED dollars and ZERO cents) under the Equal Access to Justice Act (EAJA), 28 U.S.C. § 2412(d), and costs in the amount of $402.00 (FOUR HUNDRED AND TWO dollars and ZERO cents) to be paid separately from the Judgment Fund, pursuant to 28 U.S.C. § 1920, be awarded subject to the terms of the Stipulation. Payments may be made by electronic fund transfer (EFT) or by check.

IT IS SO ORDERED.

Dated: May 29, 2024

JEREMY D. PETERSON
UNITED STATES MAGISTRATE JUDGE