

**UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF
CALIFORNIA**

Josue Portillo v. Frank J. Bisignano, Commissioner of Social Security

Portillo · No. 1:25-cv-00174-KES-HBK · Decided December 3, 2025

OPINION

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info@jonathanpena.com Attorney for Plaintiff, Josue Portillo 7 8 9 UNITED STATES DISTRICT
COURT 10 FOR THE EASTERN DISTRICT OF CALIFORNIA FRESNO DIVISION 11 12
Josue Portillo, Case No. 1:25-cv-00174-KES-HBK 13 Plaintiff, STIPULATION FOR THE
AWARD 14 AND PAYMENT OF ATTORNEY v. FEES AND EXPENSES PURSUANT 15 TO
THE EQUAL ACCESS TO 16 Frank J. Bisignano¹, JUSTICE ACT; ORDER COMMISSIONER
OF SOCIAL 17 SECURITY, 18 Defendant.

19 IT IS HEREBY STIPULATED by and between the parties through their 20 undersigned
counsel, subject to the approval of the Court, that Plaintiff be awarded 21 attorney fees and
expenses in the amount of EIGHT THOUSAND TWO HUNDRED- 22 FIFTY AND 00/100
(\$8,250.00) under the Equal Access to Justice Act (EAJA), 28 23 U.S.C. § 2412(d), and costs in
the amount of ZERO dollars (\$0.00) under 28 U.S.C. 24 25 1 Frank J. Bisignano became the
Commissioner of Social Security on May 7, 26 2025.

Pursuant to Rule 25(d) of the Federal Rules of Civil Procedure, Frank J. Bisignano should be
substituted for Leland Dudek as the defendant in this suit. No 27 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 §1920. This amount represents compensation for all legal services rendered on
behalf of 2 Plaintiff by counsel in connection with this civil action, in accordance with 28 U.S.C. 3
§§ 1920, 2412(d).

4 Plaintiff was the prevailing party in this matter and Plaintiff is an individual 5 whose net worth
does not exceed \$2,000,000 at the time the civil action was filed. 6 After the Court issues an order
for EAJA fees to Plaintiff, the government will 7 consider the matter of Plaintiff's assignment of
EAJA fees to Plaintiff's attorney. 8 Under *Astrue v. Ratliff*, 130 S. Ct.

2521, 2528-29 (2010), EAJA fees awarded by this 9 Court belong to the Plaintiff and are subject
to offset under the Treasury Offset Program 10 (31 U.S.C. § 3716(c)(3)(B) (2006)). Any EAJA
fees should therefore be awarded to 11 Plaintiff and not to Plaintiff's attorney. If, after receiving
the Court's EAJA fee order, 12 the Commissioner (1) determines that Plaintiff has assigned his
right to EAJA fees to 13 his attorney; (2) determines that Plaintiff does not owe a debt that is

subject to offset 14 under the Treasury Offset Program, and (3) agrees to waive the requirements of the 15 16 Anti-Assignment Act, then the EAJA fees will be made payable to Plaintiff's attorney, 17 JONATHAN O. PEÑA-MANCINAS at the firm, PEÑA & BROMBERG, PC.

18 However, if there is a debt owed under the Treasury Offset Program, the Commissioner 19 cannot agree to waive the requirements of the Anti-Assignment Act, and the remaining 20 EAJA fees after offset will be paid by a check or electronic fund transfer (EFT) made 21 out to Plaintiff, but delivered to Plaintiff's attorney, JONATHAN O. PEÑA- 22 MANCINAS at the firm, PEÑA & BROMBERG, PC.

23 This stipulation constitutes a compromise settlement of Plaintiff's request for 24 EAJA attorney fees, and does not constitute an admission of liability on the part of 25 Defendant under the EAJA or otherwise. Payment of the agreed amount shall constitute 26 a complete release from, and bar to, any and all claims that Plaintiff and/or Counsel 27 1 including Counsel's firm may have relating to EAJA attorney fees in connection with 2 this action.

3 The parties further agree that the EAJA award is without prejudice to the right of 4 Plaintiff's attorney to seek attorney fees pursuant to Social Security Act § 206(b), 42 5 U.S.C. § 406(b), subject to the offset provisions of the EAJA. See 28 U.S.C. § 6 2412(c)(1) (2006). 7 Respectfully submitted, 8 9 Dated: December 2, 2025 /s/ Jonathan O. Peña 10 J ONATHAN O. PEÑA 11 Attorney for Plaintiff 12 Dated: December 2, 2025 ERIC GRANT 13 United States Attorney 14 MATHEW W. PILE Head of Program Litigation 1 15 Law & Policy 16 Social Security Administration 17 By: *_Margaret Branick-Abilla 18 Margaret Branick-Abilla Special Assistant U.S. Attorney 19 Attorneys for Defendant 20 (*Permission to use electronic signature obtained via email on December 2, 2025).

21 22 23 24 25 26 27 ORDER 2 3 Based upon the parties' Stipulation for the Award and Payment of Equal Access 4 || to Justice Act Fees and Expenses (the "Stipulation"), 5 IT IS ORDERED that fees and expenses in the amount of EIGHT THOUSAND 6 | TWO HUNDRED-FIFTY AND 00/100 (\$8,250.00) as authorized by the Equal Access 7 || to Justice Act (EAJA), 28 U.S.C. § 2412(d), be awarded subject to the terms of the 8 || Stipulation.

9 10 || IS SO ORDERED. _ 11 Dated: _ December 2, 2025 4A. Dv UNITED STATES DISTRICT JUDGE 13 14 15 16 17 18 19 20 21 22 23 24 25 26 27 28 -A-