

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

Lupe Espinoza v. Leland Dudek

Espinoza · No. 1:24-cv-01259-GSA · Decided March 6, 2025

SUMMARY

This document is a stipulation and order awarding Plaintiff \$881.44 in attorney fees and expenses under the Equal Access to Justice Act, plus \$0.00 in costs, in a Social Security action. The United States District Court for the Eastern District of California approved the parties' stipulation on March 5, 2025, subject to provisions concerning assignment, Treasury offsets, and potential fees under 42 U.S.C. § 406(b).

OPINION

1 Jonathan O. Peña, Esq. 2 CA Bar ID No.: 278044 Peña & Bromberg, PLC 3 3467 W. Shaw Ave.,
Ste 100 4 Fresno, CA 93711 Telephone: 559-439-9700 5 Facsimile: 559-439-9723 6 Email:
info@jonathanpena.com Attorney for Plaintiff, Lupe Espinoza 7 8 9 UNITED STATES
DISTRICT COURT 10 FOR THE EASTERN DISTRICT OF CALIFORNIA FRESNO
DIVISION 11 12 Lupe Espinoza, Case No. 1:24-cv-01259-GSA 13 Plaintiff, STIPULATION
FOR THE AWARD 14 AND PAYMENT OF ATTORNEY v. FEES AND EXPENSES
PURSUANT 15 TO THE EQUAL ACCESS TO 16 Leland Dudek1, ACTING JUSTICE ACT;
ORDER COMMISSIONER OF SOCIAL 17 SECURITY, (Doc.

13) 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 HUNDRED EIGHTY-ONE 22 DOLLARS AND
44/100 (\$881.44) 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 Leland Dudek became the
Acting Commissioner of Social Security on February 26 16, 2025.

Pursuant to Rule 25(d) of the Federal Rules of Civil Procedure, Leland Dudek should be
substituted for Michelle King as the defendant in this suit. No further action 27 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: March 5, 2025 /s/ Jonathan O. Peña 10 J ONATHAN O. PEÑA 11 Attorney for Plaintiff 12 Dated: March 5, 2025 MICHELE BECKWITH 13 United States Attorney 14 MATHEW W. PILE Associate General Counsel 15 Office of Program Litigation 16 Social Security Administration 17 By: *_Justin Lane Martin 18 Justin Lane Martin Special Assistant U.S. Attorney 19 Attorneys for Defendant 20 (*Permission to use electronic signature obtained via email on March 5, 2025).

21 22 23 24 25 26 27 1 ORDER 2 Based upon the parties' Stipulation for the Award and Payment of Equal Access 3 4 to Justice Act Fees and Expenses (the "Stipulation"), 5 IT IS ORDERED that fees and expenses in the amount of EIGHT HUNDRED 6 EIGHTY-ONE DOLLARS AND 44/100 (\$881.44) as authorized by the Equal Access 7 8 to Justice Act (EAJA), 28 U.S.C. § 2412(d), and costs in the amount of ZERO dollars 9 (\$0.00) under 28 U.S.C. §1920, be awarded subject to the terms of the Stipulation.

10 11 IT IS SO ORDERED. 12 Dated: March 5, 2025 /s/ Gary S. Austin 13 UNITED STATES
MAGISTRATE JUDGE 14 15 16 17 18 19 20 21 22 23 24 25 26 27