

**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

OPINION

(SS) Espinoza v. Commissioner of Social Security

PER CURIAM.

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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

