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UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

JEANNIE ELIZABETH COPELAND,
Plaintiff,
v.
MICHAEL J. ASTRUE,
Commissioner of Social Security
Administration,
Defendant.

Case No. ED CV-11-01383-SP

MEMORANDUM OPINION AND
ORDER

I.
INTRODUCTION

On September 9, 2011, plaintiff Jeannie Elizabeth Copeland filed a complaint against defendant Michael J. Astrue, seeking a review of a denial of supplemental security income (“SSI”). Both plaintiff and defendant have consented to proceed for all purposes before the assigned Magistrate Judge pursuant to 28 U.S.C. § 636(c). The court deems the matter suitable for adjudication without oral argument.

Plaintiff presents three disputed issues for decision: (1) whether the

1 Administrative Law Judge (“ALJ”) properly considered all of the relevant medical
2 evidence; (2) whether the ALJ properly determined that plaintiff did not meet
3 Listing 1.02(A) of 20 C.F.R. part 404, Subpart P, Appendix 1 (the “Listings”); and
4 (3) whether the ALJ properly applied Rule 201.12 of the Medical Vocational
5 Guidelines found at 20 C.F.R. part 404, Subpart P, Appendix 2 (“GRID”).
6 Plaintiff’s Memorandum in Support of Complaint (“Pl. Mem.”) at 2-11;
7 Defendant’s Memorandum in Support of Defendant’s Answer (“D. Mem.”) at 6-
8 14.

9 Having carefully studied, inter alia, the parties’s written submissions, the
10 Administrative Record (“AR”), and the decision of the ALJ, the court concludes
11 that, as detailed herein, the ALJ improperly rejected the opinion of Dr. Bunsri
12 Sophon. Therefore, the court remands this matter to the Commissioner of the
13 Social Security Administration (“Commissioner”) in accordance with the
14 principles and instructions enunciated in this Memorandum Opinion and Order.

15 II.

16 **FACTUAL AND PROCEDURAL BACKGROUND**

17 Plaintiff, who was fifty years old on the date of her December 8, 2009
18 administrative hearing, is a high school graduate and completed two years of
19 college. AR at 53, 129. Her past relevant work includes employment as a
20 production worker at a warehouse. AR at 46, 54, 154.

21 On December 21, 2007, plaintiff filed an application for SSI, alleging an
22 onset date of October 11, 2006, due to degenerative arthritis in both knees and
23 chronic obstructive pulmonary disease (“COPD”). AR at 148, 153. Plaintiff
24 injured her knees when she was hit by a car while crossing the street on a bicycle.
25 AR at 41. The Commissioner denied plaintiff’s application initially and upon
26 reconsideration, after which she filed a request for a hearing. AR at 66-70, 75-79,
27 83.

1 On July 24, 2009, plaintiff, represented by counsel, appeared and testified at
2 a hearing before the ALJ. AR at 49-63. On December 8, 2009, plaintiff appeared
3 and testified at a second hearing before the ALJ. AR at 36-48. At the second
4 hearing, the ALJ also heard testimony from Joseph Mooney, a vocational expert.
5 AR at 46-47. On January 14, 2010, the ALJ denied plaintiff's claim for benefits.
6 AR at 26-32.

7 Applying the well-known five-step sequential evaluation process, the ALJ
8 found, at step one, that plaintiff did not engage in substantial gainful activity since
9 the application date, December 21, 2007. AR at 28.

10 At step two, the ALJ found that plaintiff suffered from the following severe
11 impairment: sprain/strain of bilateral knees. *Id.*

12 At step three, the ALJ found that plaintiff's impairment did not meet or
13 medically equal one of the listed impairments set forth in the Listings. *Id.*

14 The ALJ then assessed plaintiff's residual functional capacity ("RFC")¹ and
15 determined that she has the RFC to perform medium work with the following
16 limitation: plaintiff should avoid concentrated exposure to extreme cold and
17 vibrations. *Id.*

18 The ALJ found, at step four, that plaintiff was capable of performing her
19 past relevant work. AR at 30.

20 Although the ALJ did not need to reach step five, he also determined that,
21 based upon plaintiff's age, education, work experience, and RFC, plaintiff could
22 perform "other jobs that exist in significant numbers in the national economy,"
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24 ¹ Residual functional capacity is what a claimant can do despite existing
25 exertional and nonexertional limitations. *Cooper v. Sullivan*, 880 F.2d 1152,
26 1155-56 n.5-7 (9th Cir. 1989). "Between steps three and four of the five-step
27 evaluation, the ALJ must proceed to an intermediate step in which the ALJ
28 assesses the claimant's residual functional capacity." *Massachi v. Astrue*, 486
F.3d 1149, 1151 n.2 (9th Cir. 2007).

1 including housekeeper and cleaner, laundry worker, and kitchen worker. AR at
2 31. Consequently, the ALJ concluded that plaintiff did not suffer from a disability
3 as defined by the Social Security Act. AR at 32.

4 Plaintiff filed a timely request for review of the ALJ's decision, which was
5 denied by the Appeals Council. AR at 3-6, 22. The ALJ's decision stands as the
6 final decision of the Commissioner.

7 III.

8 STANDARD OF REVIEW

9 This court is empowered to review decisions by the Commissioner to deny
10 benefits. 42 U.S.C. § 405(g). The findings and decision of the Social Security
11 Administration must be upheld if they are free of legal error and supported by
12 substantial evidence. *Mayes v. Massanari*, 276 F.3d 453, 458-59 (9th Cir. 2001)
13 (as amended). But if the court determines that the ALJ's findings are based on
14 legal error or are not supported by substantial evidence in the record, the court
15 may reject the findings and set aside the decision to deny benefits. *Aukland v.*
16 *Massanari*, 257 F.3d 1033, 1035 (9th Cir. 2001); *Tonapetyan v. Halter*, 242 F.3d
17 1144, 1147 (9th Cir. 2001).

18 “Substantial evidence is more than a mere scintilla, but less than a
19 preponderance.” *Aukland*, 257 F.3d at 1035. Substantial evidence is such
20 “relevant evidence which a reasonable person might accept as adequate to support
21 a conclusion.” *Reddick v. Chater*, 157 F.3d 715, 720 (9th Cir. 1998); *Mayes*, 276
22 F.3d at 459. To determine whether substantial evidence supports the ALJ's
23 finding, the reviewing court must review the administrative record as a whole,
24 “weighing both the evidence that supports and the evidence that detracts from the
25 ALJ's conclusion.” *Mayes*, 276 F.3d at 459. The ALJ's decision “cannot be
26 affirmed simply by isolating a specific quantum of supporting evidence.”
27 *Aukland*, 257 F.3d at 1035 (quoting *Sousa v. Callahan*, 143 F.3d 1240, 1243 (9th
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1 Cir. 1998)). If the evidence can reasonably support either affirming or reversing
2 the ALJ's decision, the reviewing court "may not substitute its judgment for that
3 of the ALJ." *Id.* (quoting *Matney v. Sullivan*, 981 F.2d 1016, 1018 (9th Cir.
4 1992)).

5 IV.

6 DISCUSSION

7 **A. The ALJ Failed to Provide Specific and Legitimate Reasons for** 8 **Rejecting the Opinion of an Examining Physician**

9 Plaintiff argues that the ALJ failed to properly consider all of the relevant
10 medical evidence. Pl. Mem. at 2-8. Despite plaintiff's characterization of her
11 claim, she appears to be arguing that the ALJ failed to provide specific and
12 legitimate reasons for rejecting the opinion of orthopedic consultative examiner
13 Dr. Bunsri Sophon. *Id.*

14 In determining whether a claimant has a medically determinable
15 impairment, among the evidence the ALJ considers is medical evidence. 20
16 C.F.R. §§ 404.1527(b), 416.927(b). In evaluating medical opinions, the
17 regulations distinguish among three types of physicians: (1) treating physicians;
18 (2) examining physicians; and (3) non-examining physicians. 20 C.F.R.
19 §§ 404.1527(c), (e), 416.927(c), (e); *Lester v. Chater*, 81 F.3d 821, 830 (9th Cir.
20 1995) (as amended). "Generally, a treating physician's opinion carries more
21 weight than an examining physician's, and an examining physician's opinion
22 carries more weight than a reviewing physician's." *Holohan v. Massanari*, 246
23 F.3d 1195, 1202 (9th Cir. 2001); 20 C.F.R. §§ 404.1527(c)(1)-(2), 416.927(c)(1)-
24 (2). The opinion of the treating physician is generally given the greatest weight
25 because the treating physician is employed to cure and has a greater opportunity to
26 understand and observe a claimant. *Smolen v. Chater*, 80 F.3d 1273, 1285 (9th
27 Cir. 1996); *Magallanes v. Bowen*, 881 F.2d 747, 751 (9th Cir. 1989).

1 Nevertheless, the ALJ is not bound by the opinion of the treating physician.
2 *Smolen*, 80 F.3d at 1285. If a treating physician’s opinion is uncontradicted, the
3 ALJ must provide clear and convincing reasons for giving it less weight. *Lester*,
4 81 F.3d at 830. If the treating physician’s opinion is contradicted by other
5 opinions, the ALJ must provide specific and legitimate reasons supported by
6 substantial evidence for rejecting it. *Id.* at 830. Likewise, the ALJ must provide
7 specific and legitimate reasons supported by substantial evidence in rejecting the
8 contradicted opinions of examining physicians. *Id.* at 830-31. The opinion of a
9 non-examining physician, standing alone, cannot constitute substantial evidence.
10 *Widmark v. Barnhart*, 454 F.3d 1063, 1067 n.2 (9th Cir. 2006); *Morgan v.*
11 *Comm’r*, 169 F.3d 595, 602 (9th Cir. 1999); *see also Erickson v. Shalala*, 9 F.3d
12 813, 818 n.7 (9th Cir. 1993).

13 **1. Medical Opinions**

14 **a. Treating Physicians**

15 Plaintiff’s treatment notes do not reflect a specific treating physician,
16 whether primary care or orthopedic specialist. *See generally* AR at 199-220, 235-
17 78, 292-95. Instead, it appears that plaintiff primarily sought treatment from the
18 Riverside Neighborhood Health Center, a clinic managed by the Riverside County
19 Community Health Agency, and the emergency department or the General Ortho
20 Clinic (“Ortho Clinic”) at the Riverside County Regional Medical Center. *See id.*

21 Treatment notes from the Riverside Neighborhood Health Center primarily
22 consist of Physical Assessments performed by certified medical assistants and
23 health surveillance assistants between January and July 2008. AR at 235-41.
24 During this time, plaintiff complained of problems with her right knee. *Id.* On
25 January 22, 2008, an x-ray of the right knee revealed that plaintiff had no
26 suprapatellar effusion, no significant degenerative changes, and no evidence of a
27 fracture or dislocation. AR at 243. In April 2008, plaintiff began to arrive at her
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1 medical appointments in a wheelchair. AR at 238. The Administrative Record
2 does not contain any treatment notes from the Riverside Neighborhood Health
3 Center after July 23, 2008. It does, however, contain a note, dated April 22, 2009,
4 and a Medical Report dated April 27, 2010, from Dr. Ibrahim Sumarli of the
5 Riverside Neighborhood Health Center opining that plaintiff was permanently
6 disabled.² AR at 247, 295.

7 The treatment notes from the Ortho Clinic indicate that numerous doctors
8 treated plaintiff. *See* AR at 249-50, 255-58. At these visits, plaintiff consistently
9 complained about right knee pain and an inability to flex it. AR at 249-58.

10 Doctors determined that she had a reduced range of motion in her knees but no
11 effusion. *See, e.g.*, AR at 246-50, 257. On March 18, 2009, upon referral by the
12 Ortho Clinic, a neurologist opined that plaintiff had bilateral knee contracture and
13 she was unable to extend her leg, but she had no convincing neurological deficit.
14 AR at 251-52. On April 10, 2009, a doctor observed that plaintiff had decreased
15 range of motion and right knee contracture, but opined that she did not have a
16 disability. AR at 249.

17 **b. Examining Physicians**

18 *Dr. Bahaa Girgis*

19 Dr. Bahaa Girgis, an internist, examined plaintiff on February 19, 2008. AR
20 at 221-24. Dr. Girgis reviewed plaintiff's history and medical records, and
21 conducted a physical examination. *Id.* At the examination, Dr. Girgis observed
22 that with regard to her knees, plaintiff had no effusion or deformity, mild crepitus
23 sensation bilateral more on the right knee than the left, no mediolateral or
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25 ² Although Dr. Sumarli wrote that plaintiff was under his care (AR at 247)
26 and certain laboratory reports indicate that he was plaintiff's treating physician
27 (*see, e.g.*, AR at 205, 242), none of his treatment notes are included in the
28 Administrative Record. Further, the Medical Report was issued subsequent to the
ALJ's decision.

1 anteroposterior instability, and a decreased range of motion. AR at 223. Dr.
2 Girgis also observed that plaintiff had a normal gait. AR at 224. Dr. Girgis
3 opined that plaintiff had degenerative joint arthritis of the bilateral knee, mild
4 crepitus sensation of the knees, and a decreased range of motion. *Id.*

5 Based on the examination, Dr. Girgis opined that plaintiff could lift/carry
6 fifty pounds occasionally and 25 pounds frequently and stand/walk/sit for six
7 hours out of an eight-hour workday. *Id.*

8 *Dr. Bunsri Sophon*

9 Dr. Bunsri Sophon, an orthopedic surgeon, examined plaintiff on August
10 17, 2009. AR at 279-84. Dr. Sophon reviewed plaintiff's history and medical
11 records, and conducted a physical examination. *Id.* Dr. Sophon observed that
12 plaintiff arrived at the examination in a wheelchair and was unable to stand or
13 walk. AR at 281. Dr. Sophon also observed that there was no evidence of
14 tenderness, swelling, joint effusion, or crepitation in the knees. AR at 282.
15 Plaintiff had a decreased range of motion. *Id.* Dr. Sophon diagnosed plaintiff
16 with bilateral knee sprain/strain. AR at 283. Dr. Sophon opined that plaintiff
17 demonstrated severe flexion contracture of both knees, was unable to stand or
18 walk, and required a wheelchair at all times. *Id.* Dr. Sophon further opined that
19 plaintiff was capable of lifting and carrying twenty pounds occasionally and ten
20 pounds frequently in a sitting position. *Id.*

21 **c. State Agency Physicians**

22 *Dr. Arlene Wong*

23 Dr. Arlene Wong, a state agency physician, issued an RFC assessment on
24 February 27, 2008. AR at 227-31. Dr. Wong opined that plaintiff: could lift/carry
25 fifty pounds occasionally and twenty-five pounds frequently; and could
26 stand/walk/sit six hours in an eight-hour day. AR at 228.

1 *Dr. E. Grain and Dr. P. Boetcher*

2 Dr. E. Garin and Dr. P. Boetcher, state agency physicians, issued case
3 analyses affirming the RFC. AR at 244-46.

4 **d. Subsequent Medical Findings³**

5 In a Medical Report dated April 27, 2010, Dr. Sumarli indicated that
6 plaintiff had right knee contracture and was permanently unable to work at her
7 past job. AR at 295.

8 On November 15, 2010, Dr. Richard A. Mitchell conducted an MRI exam of
9 plaintiff's right knee. AR at 21. Dr. Mitchell stated that it was a suboptimal
10 examination due to persistent flexion and poor positioning. *Id.* He noted that the
11 cruciate and collateral ligaments were intact, there were no significant effusions,
12 and the menisci appeared to be intact. *Id.* Dr. Mitchell observed some joint space
13 narrowing and some sharpening of the tibial spines and early degenerative
14 remodeling. *Id.* Dr. Mitchell opined that: there was evidence of mild
15 degenerative osteoarthritis; there was focus of subchondral osteochondrosis or
16 possibly reflection of chondromalacia patellae involving the medial aspect of the
17 lateral facet; and the study was otherwise within normal limits. *Id.*

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23 ³ Plaintiff submitted additional evidence to the Appeals Council (AR at 7, 21,
24 194), which the reviewing court may review if made a part of the record. *See, e.g.,*
25 *Ramirez v. Shalala*, 8 F.3d 1449, 1452 (9th Cir. 1993); *Penny v. Sullivan*, 2 F.3d
26 953, 957 n.7 (9th Cir. 1993). *But see* 20 C.F.R. §§ 404.970(b), 416.1470(b) (“[I]f
27 new and material evidence is submitted, the Appeals Council shall consider the
28 additional evidence only where it relates to the period on or before the date of the
[ALJ] hearing decision.”). Although this court briefly discusses the subsequent
medical evidence, it does not affect the decision.

1 **2. The ALJ’s Findings**

2 Here, the ALJ concluded that plaintiff had the RFC to perform medium
3 work,⁴ but should avoid concentrated exposure to extreme cold and vibrations.
4 AR at 28. In reaching that determination, the ALJ discussed plaintiff’s medical
5 records, rejected Dr. Sophon’s opinion, and appeared to give great weight to the
6 opinion of Dr. Girgis.⁵ AR at 29-30.

7 To the extent that plaintiff contends that the ALJ simply misinterpreted the
8 evidence, her claim fails. “Where evidence is susceptible to more than one
9 rational interpretation,” the court must uphold the ALJ’s decision. *Burch v.*
10 *Barnhart*, 400 F.3d 676, 679 (9th Cir. 2005).

11 But the ALJ did err because he failed to provide specific and legitimate
12 reasons supported by substantial evidence for rejecting Dr. Sophon’s opinion. *See*
13 *Lester*, 81 F.3d at 830-31. The ALJ rejected Dr. Sophon’s opinion on the basis
14 that the “excessive limitations” he imposed were “unfounded.” AR at 30.
15 Specifically, the ALJ stated “[t]he diagnosis offered for those excessive limitations
16 is nothing more than knee sprains.” *Id.* In other words, the diagnosis and
17 functional limitations were inconsistent.

18 Although, on its face, the ALJ’s reason may appear specific and legitimate,
19 it is not. The ALJ did not state that the limitations were unsupported by the record

21 ⁴ “Medium work involves lifting no more than 50 pounds at a time with
22 frequent lifting or carrying of objects weighing up to 25 pounds.” 20 C.F.R.
23 §§ 404.1567(c), 416.967(c).

24 ⁵ Although the ALJ did not discuss the opinions of the State Agency
25 physicians or Dr. Sumarli in his decision, the ALJ is not required to “discuss every
26 piece of evidence” so long as the decision was supported by substantial evidence.
27 *Howard ex rel. Wolff v. Barnhart*, 341 F.3d 1006, 1012 (9th Cir. 2003); *Vincent ex*
28 *rel. Vincent v. Heckler*, 739 F.2d 1393, 1394-95 (9th Cir. 1984) (citing *Cotter v.*
Harris, 642 F.2d 700, 706 (3d Cir. 1981)). The ALJ must only explain why
“significant probative evidence has been rejected.” *Vincent*, 739 F.2d at 1395.

1 as a whole, the medical evidence, or Dr. Sophon’s findings, all which may be
2 specific and legitimate reasons. *See Batson v. Comm’r*, 359 F.3d 1190, 1195 (9th
3 Cir. 2004) (ALJ may discredit treating physicians’ opinions that are conclusory,
4 brief, and supported by the record as a whole, or by objective medical findings);
5 *Thomas v. Barnhart*, 278 F.3d 947, 957 (9th Cir. 2002) (“The ALJ need not accept
6 the opinion of any physician . . . if that opinion is is brief, conclusory, and
7 inadequately supported by clinical findings.”). Instead, the ALJ, without
8 considering Dr. Sophon’s underlying findings, concluded it was not possible for a
9 knee sprain diagnosis to require the limitations imposed by Dr. Sophon. AR at 30.
10 In other words, the ALJ improperly substituted his own interpretation of the knee
11 sprain *diagnosis* for that of Dr. Sophon’s opinion of the medical findings. *Tackett*
12 *v. Apfel*, 180 F.3d 1094, 1102-03 (9th Cir. 1999) (finding it inappropriate for the
13 ALJ to substitute his own opinion for that of a treating physician); *see also Rohan*
14 *v. Chater*, 98 F.3d 966, 970 (7th Cir. 1996) (an ALJ should not “succumb[] to the
15 temptation to play doctor and make [his] own independent medical findings”).
16 Accordingly, the ALJ erred because he failed to provide specific and legitimate
17 reasons for discounting Dr. Sophon’s opinion.

18 Although there are few objective medical findings, the court also notes that
19 the record is not bereft of evidence supporting plaintiff’s claims. *See Andrews v.*
20 *Shalala*, 53 F.3d 1035, 1039 (9th Cir. 1995) (it is the duty of the ALJ to resolve
21 conflicting medical evidence). In reaching his conclusion, the ALJ relied greatly
22 on the opinion of Dr. Girgis. *See* AR at 30. But Dr. Girgis conducted his
23 examination and offered his opinion almost two years prior to the ALJ’s decision.
24 The medical records show that plaintiff’s condition appeared to have increased in
25 severity subsequent to the internal medicine examination. Plaintiff began to use a
26 wheelchair and visit doctors at an increasing frequency complaining of knee pain.
27 *See generally* AR at 235-238, 247-258. While doctors found no neurological
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1 deficit, they noted that she had bilateral knee contractures and was unable to
2 extend her legs. AR at 251-52. Plaintiff testified that Dr. Yost, an orthopedic
3 surgeon, recommended total knee replacement. AR at 40. Most recently, on
4 November 5, 2010, Dr. Mitchell conducted an MRI exam of the right knee and
5 noted, among other things, that plaintiff had persistent flexion, which caused the
6 examination to be suboptimal. AR at 21. This is among the evidence that must be
7 considered on remand.

8 **B. Listing 1.02A and GRID**

9 Plaintiff alleges that the ALJ failed to properly determine that she met or
10 equaled Listing 1.02A⁶ and failed to properly apply Rule 201.12⁷ of the GRID. Pl.
11 Mem. at 8-11. Plaintiff claims to have met Listing 1.02A as early as April 10,
12 2008. AR at 9.

13 Based on the foregoing, the ALJ must first reexamine the medical evidence,
14 specifically including Dr. Sophon's opinion. This review may change his RFC
15 determination, and may also alter his conclusion regarding whether plaintiff meets
16 or equals Listing 1.02A and whether she is disabled under GRID Rule 201.12. If
17 the ALJ reaches the same RFC determination, which would signify that plaintiff
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19 ⁶ Listing 1.02A states, in relevant part:

20 Major dysfunction of a joint(s) (due to any cause): Characterized by gross
21 anatomical deformity . . . and chronic joint pain and stiffness with signs of
22 limitation of motion or other abnormal motion of the affected joint(s), and
23 findings on appropriate medically acceptable imagining of joint space
narrowing, bony destruction, or ankylosis of the affected of the affected
joint(s). With:

24 A. Involvement of one major peripheral weight-bearing joint . . .
25 resulting in inability to ambulate effectively, as defined in 1.00B2b.

26 ⁷ Rule 201.12 provides that a person of an advanced age with an education
27 that does not provide for direct entry into skilled work, whose previous work
28 experience is unskilled, and whose RFC is limited to sedentary is considered
disabled.

1 can ambulate effectively, then plaintiff does not meet Listing 1.02A. Plaintiff
2 would also not be entitled to a disability finding under Rule 201.12 of the Grid
3 because her RFC would not be sedentary. If the ALJ reaches a different RFC
4 determination, he must reconsider whether plaintiff meets Listing 1.02A or is
5 disabled under GRID Rule 201.12. This court need not reach these issues at this
6 time.

7 **V.**

8 **REMAND IS APPROPRIATE**

9 The decision whether to remand for further proceedings or reverse and
10 award benefits is within the discretion of the district court. *McAllister v. Sullivan*,
11 888 F.2d 599, 603 (9th Cir. 1989). Where no useful purpose would be served by
12 further proceedings, or where the record has been fully developed, it is appropriate
13 to exercise this discretion to direct an immediate award of benefits. *See Benecke*
14 *v. Barnhart*, 379 F.3d 587, 595-96 (9th Cir. 2004); *Harman v. Apfel*, 211 F.3d
15 1172, 1179-80 (9th Cir. 2000) (decision whether to remand for further proceedings
16 turns upon their likely utility). But where there are outstanding issues that must be
17 resolved before a determination can be made, and it is not clear from the record
18 that the ALJ would be required to find a plaintiff disabled if all the evidence were
19 properly evaluated, remand is appropriate. *See Benecke*, 379 F.3d at 595-96;
20 *Harman*, 211 F.3d at 1179-80.

21 Here, as set out above, remand is required because the ALJ erred in failing
22 to properly evaluate the opinion Dr. Sophon. On remand, the ALJ shall reconsider
23 Dr. Sophon's opinion regarding plaintiff's limitations, and either credit his opinion
24 or provide specific and legitimate reasons supported by substantial evidence for
25 rejecting it. If the ALJ reaches a new RFC determination, the ALJ shall also
26 reconsider whether plaintiff meets a Listing or is disabled under the GRID. If
27 plaintiff does not meet a Listing or is not disabled under the GRID, the ALJ shall
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1 then proceed through steps four and five to determine what work, if any, plaintiff
2 is capable of performing.

3 **VI.**

4 **CONCLUSION**

5 IT IS THEREFORE ORDERED that Judgment shall be entered
6 REVERSING the decision of the Commissioner denying benefits, and
7 REMANDING the matter to the Commissioner for further administrative action
8 consistent with this decision.

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10 DATED: July 20, 2012



11 SHERI PYM
12 United States Magistrate Judge
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