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6 **IN THE UNITED STATES DISTRICT COURT**
7 **FOR THE DISTRICT OF ARIZONA**
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9 Leopoldo N. Leon,

10 Plaintiff,

11 v.

12 Commissioner of the Social Security
13 Administration,

14 Defendant.
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No. CV-14-00093-PHX-DGC

ORDER

16 On December 19, 2014, the Court entered an order rejecting Plaintiff Leon's
17 challenges to the ALJ's decision, with one exception. The Court found that the ALJ
18 failed to give sufficient reasons for rejecting Leon's testimony about his fatigue. Doc. 16
19 at 11. The Court remanded for further proceedings consistent with its decision.

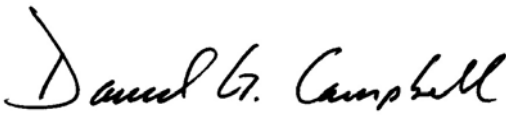
20 Leon appealed, and the Ninth Circuit affirmed the Court's ruling on the ALJ's
21 decision. The Ninth Circuit remanded, however, with instructions that this Court
22 "specify the scope of its remand." *Leon v. Berryhill*, 880 F.3d 1041, 1048 (9th Cir.
23 2017). The Court will do so, consistent with the Ninth Circuit's decision.

24 **IT IS ORDERED:** The final decision of the Commission of Social Security is
25 remanded, "with an open record on the issue of Leon's fatigue related to his capacity to
26 undertake full time employment. Because the ALJ relied on Dr. McLean's opinion in
27 discrediting Leon's fatigue testimony and the record has not been developed thoroughly
28 on the issue of Leon's fatigue, Leon shall be allowed to cross-examine the

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Commissioner’s medical consultants on the sole issue of his fatigue.” *Id.*

Dated this 22nd day of February, 2018.



David G. Campbell
United States District Judge