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6 **IN THE UNITED STATES DISTRICT COURT**  
7 **FOR THE DISTRICT OF ARIZONA**  
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9 Lorrie Sawtelle,

10 Plaintiff,

11 v.

12 Commissioner of Social Security  
13 Administration,

14 Defendant.

No. CV-15-08009-PCT-ESW

**ORDER**

15 The Court has considered Motion for Remand (Doc. 19), Plaintiff's Response  
16 (Doc. 20), and Defendant's Reply (Doc. 21). The matter is deemed submitted for  
17 decision. The parties are in agreement that remand is appropriate and the factual basis for  
18 remand is not in dispute. The Court has jurisdiction pursuant to 42 U.S.C. 405(g). Both  
19 parties have consented to U.S. Magistrate Judge jurisdiction (Doc. 11).

20 The Court finds that proper notification procedures were not followed by the  
21 Administrative Law Judge (ALJ) in determining that Plaintiff did not have good cause for  
22 failing to appear at a hearing. The error was not harmless because the ALJ must consider  
23 the good cause reasons provided by a claimant under 20 C.F.R. §§ 405.380, 405.20(a).  
24 The ALJ failed to do so. *See Tommasetti v. Astrue*, 533 F.3d 1035, 1038 (9<sup>th</sup> Cir. 2008)  
25 (citations omitted); *Molina v. Astrue*, 674 F.3d 1104, 1115 (an error is harmless so long  
26 as there remains substantial evidence supporting the ALJ's decision and the error "does  
27 not negate the validity of the ALJ's ultimate conclusion") (citations omitted). Remand is  
28 required under sentence six of 42 U.S.C. § 405(g) for further administrative proceedings.

1           The Court further finds that a determination of good cause by this Court or an  
2 award of benefits is not appropriate. The ALJ did not hold a hearing on the merits. Nor  
3 did the ALJ consider any information presented by the Plaintiff regarding good cause for  
4 failing to appear at the hearing. The District Court is not a finder of fact in the first  
5 instance. Remand for development of the administrative record is appropriate. *See*  
6 *Trenchler v. Comm'r of Social Sec Admin*, 775 F.3d 1090 (9<sup>th</sup> Cir. 2014).

7           Therefore,

8           IT IS ORDERED that the decision of the ALJ (Doc. 13-1 at 11-12) is reversed.

9           IT IS FURTHER ORDERED remanding the case for further administrative  
10 proceedings pursuant to sentence six of 42 U.S.C. § 405(g). The Appeals Council shall  
11 instruct the ALJ to further develop the record as to whether the Plaintiff had good cause  
12 for failing to appear at the hearing by mailing a Form HA-L90 and giving Plaintiff the  
13 opportunity to explain her absence. The ALJ shall consider if Plaintiff established good  
14 cause and reschedule the hearing if necessary.

15           Dated this 2nd day of September, 2015.

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Honorable Eileen S. Willett  
United States Magistrate Judge