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8 Attorneys for Defendant

9 UNITED STATES DISTRICT COURT
 10 EASTERN DISTRICT OF CALIFORNIA

11 FRESNO DIVISION

12 FRANK FONTANA,)
)
 13 Plaintiff,)
)
 14 v.)
)
 15 MICHAEL J. ASTRUE,)
 Commissioner of)
 16 Social Security,)
)
 17 Defendant.)
 _____)

CIVIL NO. 1:10-CV-00932 DLB

14 STIPULATION AND PROPOSED ORDER
 OF VOLUNTARY REMAND AND
 15 DISMISSAL OF CASE, WITH DIRECTIONS
 TO CLERK TO ENTER JUDGMENT

18
 19 IT IS HEREBY STIPULATED by the parties, through their undersigned attorneys, and with the
 20 approval of the Court as provided below, that the Commissioner has agreed to a voluntary remand of this
 21 case pursuant to sentence four of 42 U.S.C. § 405(g) for further proceedings.

22 Upon remand, the claimant should be given the opportunity to participate in another hearing. If,
 23 for any reason, the Administrative Law Judge (ALJ) conducting the hearing cannot issue or sign the
 24 decision, the hearing office must comply with HALLEX I-2-8-40, which sets forth the applicable
 25 procedures for such a situation.

26 The ALJ must consider Plaintiff's obesity in light of the record as a whole, including alleged
 27 symptoms that could reasonably be related to extreme obesity such as, but not limited to, fatigue or
 28 depression. The ALJ must consider all the medical opinions and, if he does not accept them, he must

1 explain why. The ALJ must also consider Plaintiff's subjective statements including those about his
2 activities of daily living and, if he does not find the claimant to be credible, he must provide valid
3 reasons based on a thorough account of the record.

4 It is further stipulated that the administrative decision is hereby vacated and that the Clerk of this
5 Court shall be directed to enter a separate judgment herein, as provided for under Rules 58 and 79(a) of
6 the Federal Rules of Civil Procedure, pursuant to Shalala v. Schaefer, 509 U.S. 292, 113 S. Ct. 2625
7 (1993).

8 Respectfully submitted,

9 Dated: February 1, 2011

10 /s/Sengthiene Bosavanh
11 (As authorized via telephone and fax)
12 SENGTHIENE BOSAVANH
13 Attorney for Plaintiff

12 Dated: February 1, 2011

13 BENJAMIN B. WAGNER
14 United States Attorney
15 LUCILLE GONZALES MEIS
16 Regional Chief Counsel, Region IX
17 Social Security Administration

18 /s/ Elizabeth Firer
19 ELIZABETH FIRER
20 Special Assistant U.S. Attorney

21 Attorneys for Defendant

22 ORDER

23 IT IS SO ORDERED.

24 Dated: February 1, 2011

25 /s/ Dennis L. Beck
26 UNITED STATES MAGISTRATE JUDGE