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5 **UNITED STATES DISTRICT COURT**
6 **EASTERN DISTRICT OF CALIFORNIA**
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8 **LAURA J. FLAM,**

9 **Plaintiff**

10 **v.**

11 **MARSHALL S. FLAM, M.D.,**

12 **Defendant**

CASE NO. 1:12-CV-1052 AWI DLB

**ORDER TAKING MATTER UNDER
SUBMISSION FOLLOWING
MANDATE**

(Doc. Nos. 8, 40, 41)

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15 On September 6, 2012, the Magistrate Judge remanded this matter to the Fresno County
16 Superior Court following Plaintiff's motion to remand. See Doc. No. 22. Fourteen days after the
17 remand motion had been sent to the Fresno County Superior Court, Defendant filed a motion for
18 reconsideration on September 20, 2012. See Doc. No. 26. On October 5, 2012, the Court denied
19 reconsideration because the matter had been remanded due to a lack of subject matter jurisdiction
20 and the Fresno Superior Court had already received the case back from this Court. See Doc. No.
21 30. On October 12, 2012, Defendant appealed the Court's denial of reconsideration.

22 On June 8, 2015, the Ninth Circuit reversed and remanded. See Doc. No. 40. Although
23 the Ninth Circuit had not previously addressed a Magistrate Judge's ability to remand a case, the
24 Ninth Circuit followed other circuit courts and concluded that Magistrate Judges cannot remand a
25 case. See id. The Ninth Circuit remanded the case for this Court to either rule on the motion to
26 remand or to refer the motion to remand to the Magistrate Judge for the purpose of issuing a
27 findings and recommendation. See id. On July 1, 2015, the Ninth Circuit issued mandate. See
28 Doc. No. 41.

1 The Court will follow the Ninth Circuit's instructions and rule on the motion to remand.
2 See Doc. No. 40; see also Hall v. City of Los Angeles, 697 F.3d 1059, 1067 (9th Cir. 2012)
3 (discussing the rule of mandate). In ruling on the motion to remand, the Court will
4 consider the initial briefing on the motion to remand, as well as the briefing filed with
5 Defendant's request for reconsideration. At this time, the Court intends to decide the
6 motion on the papers and without oral argument. See Local Rule 270.
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8 Accordingly, IT IS HEREBY ORDERED that Plaintiff's motion to remand (Doc.
9 No. 8) is taken under submission.

10 IT IS SO ORDERED.

11 Dated: July 23, 2015

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13 SENIOR DISTRICT JUDGE
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