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9 UNITED STATES DISTRICT COURT
10 EASTERN DISTRICT OF CALIFORNIA
11 SACRAMENTO DIVISION

12 JAMES MARTIN,) CASE NO. 2:10-cv-02226-GGH
13)
Plaintiff,) STIPULATION AND ORDER
14) TO REOPEN AND ENTER JUDGMENT
vs.) FOR PLAINTIFF
15)
16 CAROLYN W. COLVIN,)
Acting Commissioner of Social Security,)
17)
Defendant.¹)
18)

19 The parties hereby stipulate, through their undersigned attorneys, and with the approval
20 of the Court, that this case shall be reopened for the purpose of entering judgment for Plaintiff.

21 On March 30, 2011, pursuant to the stipulation of the parties, this Court remanded the
22 instant case to the Commissioner for a new hearing. Certain exhibits were missing from the
23 record, which made meaningful review of the case impossible. On February 8, 2012, an
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25 ¹ Carolyn W. Colvin became the Acting Commissioner of Social Security on February 14, 2013.
26 Pursuant to Rule 25(d) of the Federal Rules of Civil Procedure, Carolyn W. Colvin should be
27 substituted for Michael J. Astrue as the defendant in this suit. No further action need be taken to
28 continue this suit by reason of the last sentence of section 205(g) of the Social Security Act, 42
U.S.C. § 405(g).

1 administrative law judge (ALJ) issued a fully favorable decision in Plaintiff's case (see
2 Exhibit 1).

3 Now that the administrative proceedings have concluded, reopening is necessary. In a
4 sentence-six remand case, the Court retains jurisdiction following the remand. *See Melkonyan v.*
5 *Sullivan*, 501 U.S. 89, 98 (1991) (district court retains jurisdiction over Social Security cases
6 remanded under 42 U.S.C. § 405(g), sentence six, and where the final administrative decision is
7 favorable to one party or the other, the Commissioner is to return to the court following
8 completion of the administrative proceedings on remand so that the court may enter a final
9 judgment); *see also Shalala v. Schaefer*, 509 U.S. 292, 298-300 (1993).

10 [A] sentence six remand, because of clear language in the social security statute,
11 implies and necessarily involves a reservation of jurisdiction for the future and
12 contemplates further proceedings in the district court and a final judgment at the
13 conclusion thereof. A sentence six remand judgment, the Court said, is therefore
14 always interlocutory and never a "final" judgment.

15 *Carrol v. Sullivan*, 802 F.Supp. 295, 300 (C. D. Cal. 1992) (*paraphrasing and quoting*
16 *Melkonyan*).

17 It is therefore appropriate to reopen this case in order to resolve the Court's sentence-
18 six jurisdiction. Upon reopening, the parties stipulate that judgment should be entered for
19 Plaintiff.

20 Respectfully submitted,

21 Dated: May 6, 2013

22 /s/ Bess Brewer
23 (As authorized via email)
24 BESS BREWER
25 Attorney for Plaintiff

26 BENJAMIN B. WAGNER
27 United States Attorney

28 Dated: May 6, 2013

By /s/ Daniel P. Talbert
DANIEL P. TALBERT
Special Assistant U. S. Attorney
Attorneys for Defendant

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ORDER

Pursuant to stipulation, it is so ordered. Judgment shall be entered in favor of plaintiff.

Dated: November 21, 2013

/s/ Gregory G. Hollows

GREGORY G. HOLLOWES
UNITED STATES MAGISTRATE JUDGE

GGH:076/Martin2226.jdmt