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11 **UNITED STATES DISTRICT COURT**
12 **EASTERN DISTRICT OF CALIFORNIA**
13 **SACRAMENTO DIVISION**

14 SAMMIE D. HERNANDEZ,) Case No. 2:12-cv-2150-KJN
15 Plaintiff,)
16 v.) ORDER RE MOTION FOR A STAY OF
17) PROCEEDINGS IN LIGHT OF LAPSE OF
CAROLYN W. COLVIN,) APPROPRIATIONS
18 Acting Commissioner of Social Security,)
19 Defendant.)
20 _____)

21 The Acting Commissioner of Social Security hereby moves for a stay of proceedings in
22 the above-captioned case until Congress has restored appropriations.

23 1. At the end of the day on September 30, 2013, the Appropriations Act that had
24 been funding the Department of Justice expired and appropriations to the Department lapsed.
25 The same is true for most Executive agencies, including the Social Security Administration. The
26 Department does not know when funding will be restored by Congress.
27
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1 2. Absent an appropriation, Department of Justice attorneys and employees of the
2 Social Security Administration are prohibited from working, even on a voluntary basis, except in
3 very limited circumstances, including “emergencies involving the safety of human life or the
4 protection of property.” 31 U.S.C. § 1342.
5

6 3. Undersigned counsel therefore requests a stay of proceedings until Congress has
7 restored appropriations to both the Department of Justice and the Social Security Administration.

8 4. If this motion for a stay is granted, the Government requests that, when Congress
9 has appropriated funds for the Department of Justice and the Social Security Administration, all
10 current deadlines for the parties be extended commensurate with the duration of the lapse in
11 appropriations.
12

13 5. Opposing counsel has authorized the undersigned counsel to state that there is no
14 objection to this motion.
15

16 Therefore, although we greatly regret any disruption caused to the Court and the other
17 litigants, the Acting Commissioner of Social Security hereby moves for a stay of proceedings in
18 this case until Department of Justice and Social Security Administration attorneys are permitted
19 to resume their usual civil litigation functions.

20 Respectfully submitted,

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22 Date: October 1, 2013

BENJAMIN B. WAGNER
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DONNA L. CALVERT
Acting Regional Chief Counsel, Region IX
Social Security Administration

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26 By: /s/ Cynthia B. De Nardi
CYNTHIA B. DE NARDI
Special Assistant United States Attorney
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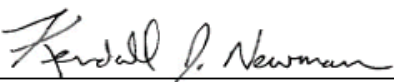
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ORDER

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APPROVED AND SO ORDERED. The stay of the action shall be automatically lifted when the lapse in appropriations has ended, without further order of the court. The Commissioner's cross-motion for summary judgment will be due within seven (7) days thereafter. In light of the extenuating circumstances, the court will entertain a stipulation for an additional extension of time, if necessary.

Dated: October 2, 2013


KENDALL J. NEWMAN
UNITED STATES MAGISTRATE JUDGE