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UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

JOHN DARWIN, IV,
Plaintiff,
v.
CAROLYN W. COLVIN, Acting
Commissioner of Social Security,
Defendant.

No. 2:14-cv-0740 AC

ORDER

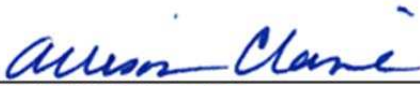
Plaintiff seeks judicial review of a final decision of the Commissioner of Social Security (“Commissioner”), denying his application for disability insurance benefits (“DIB”) under Title II of the Social Security Act, 42 U.S.C. §§ 401-34, and for Supplemental Security Income (“SSI”) under Title XVI of the Social Security Act (“the Act”), 42 U.S.C. §§ 1381-1383f.

The parties have filed cross-motions for summary judgment and fully briefed the matter. See ECF Nos. 17, 21 & 22. However, plaintiff’s opposition to the Commissioner’s cross-motion for summary judgment raises, for the first time, a challenge to the Commissioner’s reliance on Dr. Frank Chen, a consultative examiner. See ECF No. 22. Plaintiff claims that Dr. Chen was removed from a state panel of acceptable consultative examiners, for malfeasance related to his work as a consultative examiner. Id. at 1-2. Plaintiff further claims that the Commissioner may be “reviewing all adverse decisions involving examinations by Dr. Frank Chen.” Id. at 2.

1 Plaintiff further indicates that the Commissioner may be considering some form of relief “to those
2 persons whose claims were denied on the strength (or absence thereof) of his [Dr. Chen’s]
3 medical opinions.” Id.

4 Accordingly, IT IS HEREBY ORDERED that defendant shall file a Reply addressing
5 plaintiff’s newly raised issue regarding Dr. Chen – particularly the assertion that the
6 Commissioner may be reviewing the underlying decision here, and/or considering providing
7 some form of relief to plaintiff¹ – no later than May 21, 2015, at which time the matter will be
8 taken under submission.

9 DATED: April 30, 2015

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11 ALLISON CLAIRE
12 UNITED STATES MAGISTRATE JUDGE

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¹ The court is aware of Hart v. Colvin, 3:15-cv-00623 JST (N.D. Cal., filed Feb. 2, 2015), a
26 purported class action lawsuit addressing this issue. The court is aware that the Commissioner
27 has moved to dismiss that lawsuit for lack of subject matter jurisdiction. There is no need for the
28 Commissioner to brief the court on that case, unless the Commissioner believes that such briefing
is warranted.