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****E-Filed 4/2/2014****

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA
SAN JOSE DIVISION**

DUNG T. NGUYEN,
Plaintiff,
v.
COMMISSIONER OF THE SOCIAL
SECURITY ADMINISTRATION,
Defendant.

Case No. 5:09-CV-02916-JF
**ORDER REMANDING MATTER TO
COMMISSIONER FOR FURTHER
PROCEEDINGS**

On September 27, 2010, this Court granted Defendant’s motion for summary judgment, denied Plaintiff’s motion for summary judgment, and entered judgment for Defendant. *See* Order Granting Def.’s Mot. for Summ. J., ECF No. 21; Judgment, ECF No. 22. On October 17, 2012, the Court of Appeals vacated the judgment and remanded to this Court with directions to remand to the administrative law judge (“ALJ”) for consideration of new evidence that was not presented to this Court or to the ALJ in the prior proceedings. *Nguyen v. Commr. of Social Sec. Admin.*, 489 Fed. Appx. 209, 210 (9th Cir. Dec. 28, 2012). The mandate was filed on February 20, 2013. Mandate, ECF No. 34.

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Consistent with the appellate court’s decision, the matter is HEREBY REMANDED and the ALJ is directed to allow the parties to present new evidence on remand. Specifically, the parties may present new evidence of disability that was submitted in connection with Plaintiff’s second administrative proceeding before the Social Security Administration. The ALJ shall reconsider whether Plaintiff actually was disabled during the period of time relevant to his first proceeding before the Social Security Administration in light of the new evidence of disability. *See Nguyen*, 489 Fed. Appx. at 210 (indicating what the ALJ should consider on remand).

IT IS SO ORDERED.

DATED: April 2, 2014



JEREMY FOGEL
United States District Judge