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**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN JOSE DIVISION**

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

Case No. 13-cv-04521-BLF

**ORDER DENYING AS MOOT
PLAINTIFF'S LETTER REQUEST FOR
REDUCTION OF WITHHOLDING**

[Re: ECF 26]

On November 6, 2014, Plaintiff submitted a letter asking the Court to limit the amount withheld from each of his benefits checks from \$50.00 to \$10.00. *See* ECF 26. The Court construed Plaintiff's letter as a request for an order directing an interim reduction of withholding pending disposition of this action, and directed Defendant to file a response on or before November 21, 2014. *See* ECF 27.

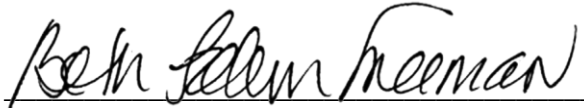
Defendant filed a timely response, asserting that the Court's intervention in the efforts of the Social Security Administration ("SSA") to recover overpayments would exceed the scope of authority conferred upon the Court by the Social Security Act ("the Act"). *See* 42 U.S.C. § 405(g), (h) (providing for review of *final* decisions of the Commissioner of Social Security). Moreover, Defendant states that the SSA currently is withholding only \$10 per month – the minimum permitted by regulation, *see* 20 C.F.R. § 404.502(c) – from Plaintiff's benefits. As evidence of the amount of withholding, Defendant submits a declaration of Sheri Horsburgh, a program analyst employed by the SSA, which states the following facts: Plaintiff receives disabled adult child's benefits under Title II of the Social Security Act and Supplemental Security Income ("SSI") under Title XVI of the Social Security Act. Horsburgh Decl. ¶ 3. From October 2007 through March 2010, the SSA withheld \$50 per month from Plaintiff's Title II benefits to

1 recover an overpayment; in April 2010, pursuant to Plaintiff's request, the SSA reduced the
2 withholding to \$10 per month; in February 2011, the SSA increased the withholding to \$79 per
3 month; and in April 2011, pursuant to Plaintiff's request, the SSA again reduced the withholding
4 to \$10 per month. *Id.* ¶¶ 4-9. From April 2011 through the present, the SSA has withheld \$10 per
5 month from Plaintiff's Title II benefits. *Id.* ¶ 9. In January 2012, the SSA notified Plaintiff that it
6 had deducted \$28 from a SSI underpayment and applied it to reduce the Title II overpayment. *Id.*
7 ¶ 10.

8 Because the withholding of Plaintiff's Title II benefits already is set at the monthly
9 minimum of \$10 per month (and has been for some time), Plaintiff's request for a reduction of
10 withholding is DENIED AS MOOT. Given that disposition, the Court need not determine
11 whether it would have the authority to direct an interim reduction of withholding in appropriate
12 circumstances.

13 **IT IS SO ORDERED.**

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15 Dated: November 26, 2014

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17 **BETH LABSON FREEMAN**
18 United States District Judge

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