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**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA**

GILBERTO G. MUNOZ,

Plaintiff,

v.

CAROLYN W. COLVIN, Acting
Commissioner of Social Security,

Defendant.

Case No.: 10cv1003-MMA (NLS)

**FINDINGS OF FACT AND
CONCLUSIONS OF LAW
FOLLOWING BENCH TRIAL**

On May 14, 2013, the above-captioned case was tried to the Court sitting without a jury. Plaintiff appeared pro se and Defendant appeared through counsel, Beth Clukey and Daniel Talbert, of the United States Attorney's Office for the Southern District of California. Plaintiff and defense counsel presented opening arguments to the Court. Plaintiff called no witnesses to testify and presented no other evidence on behalf of his claim. At the close of Plaintiff's case-in-chief, Defendant moved for judgment on partial findings pursuant to Federal Rule of Civil Procedure 52(c). Plaintiff did not object. Accordingly, and with good cause appearing, the Court granted Defendant's motion. Pursuant to Federal Rule of Civil Procedure 52(a)(1), the Court hereby issues the following findings of facts and conclusions of law.

1 **FINDINGS OF FACT AND CONCLUSIONS OF LAW**

2 1. The issue for trial was what damages, if any, Plaintiff suffered from the
3 improper medical inquiry.

4 2. Regarding damages, Plaintiff was “fully heard on an issue during a
5 nonjury trial.” Fed. R. Civ. P. 52(c).

6 3. Plaintiff presented no evidence at trial to support his claim for damages.

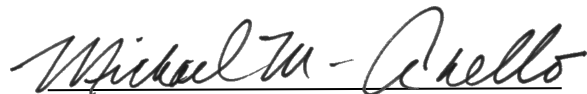
7 4. Plaintiff had the burden to prove damages. See *Faria v. M/V Louise V*,
8 945 F.2d 1142, 1143 (9th Cir. 1991) (noting that “one of the most basic propositions
9 of law” is “that the plaintiff bears the burden of proving his case, including the amount
10 of damages”); 9th Cir. Model Civil Jury Instruction 5.1 (“[y]our award must be based
11 upon evidence and not upon speculation, guesswork or conjecture”).

12 5. Plaintiff did not prove any damages; therefore, judgment on partial
13 findings in favor of Defendant is appropriate. Fed. R. Civ. P. 52(c).

14 For the foregoing reasons, the Court **GRANTS** Defendant’s motion under Rule
15 52(c). Plaintiff is not entitled to any damages on his medical inquiry claim. This
16 order, together with the Court’s November 26, 2012 summary judgment order,
17 constitute a final disposition of all claims in this action. Accordingly, the Clerk of
18 Court is instructed to enter final judgment pursuant to Federal Rule of Civil Procedure
19 58(a) and terminate the case.

20 **IT IS SO ORDERED.**

21 DATED: May 14, 2013



Hon. Michael M. Anello
United States District Judge