

IN THE UNITED STATES DISTRICT COURT FOR THE
NORTHERN DISTRICT OF FLORIDA
TALLAHASSEE DIVISION

EMMA M. MOODY,

Plaintiff,

v.

CASE NO. 4:08-cv-00291-MP-WCS

MICHAEL J. ASTRUE,
Commissioner of Social Security,

Defendant.

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ORDER

This matter is before the Court on Doc. 22, Report and Recommendation of the Magistrate Judge, which recommends that Defendant's Motion for Remand (Doc. 21) be granted.. The Magistrate entered the Report on February 26, 2009. No party has filed an objection, and the time to do so has now passed. Upon consideration, the Court finds that the Report and Recommendation should be adopted in full. Accordingly, it is hereby

ORDERED AND ADJUDGED:

1. The Report and Recommendation of the Magistrate Judge (Doc. 22) is **ADOPTED** and incorporated herein, and the Motion for Remand (Doc. 21) is **GRANTED**.
2. The Clerk is directed to enter final judgment **REVERSING** the Commissioner's decision to deny benefits and **REMANDING** the application to the Commissioner for rehearing pursuant to sentence four of 42 U.S.C. § 405(g).
3. Pursuant to Bergen v. Commissioner, 454 F.3d 1273, 1277-78 (11th Cir. 2006), proceedings on attorney fees under the Social Security Act, 42 U.S.C. § 406(b), are stayed until the matter is fully adjudicated upon remand. This stay relates only to attorney fee proceedings under § 406(b) of the Social Security Act, not to

attorney fee proceedings under the Equal Access to Justice Act, 28 U.S.C. § 2412, the latter of which may be adjudicated at this time.

DONE AND ORDERED this 30th day of March, 2009

s/Maurice M. Paul

Maurice M. Paul, Senior District Judge