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3 UNITED STATES DISTRICT COURT
4 WESTERN DISTRICT OF WASHINGTON
5 AT TACOMA

6 RICKEY A. MASSEY,

7 Plaintiff,

8 v.

9 MICHAEL J. ASTRUE, Commissioner of
10 Social Security,

11 Defendant.

Case No. 11-5257 BHS-KLS

REPORT AND RECOMMENDATION

12 This matter has been referred to the undersigned Magistrate Judge pursuant to 28 U.S.C.
13 § 636(b)(1)(B) and Local Rule MJR 4(a)(4) and as authorized by Mathews, Secretary of H.E.W.
14 v. Weber, 423 U.S. 261 (1976). This matter is before the Court on the stipulated motion for
15 remand. (ECF #23). After reviewing the parties' stipulated motion and the remaining record, the
16 undersigned recommends that the Court grant the parties' motion, and remand this matter to the
17 Commissioner for further proceedings.

18 This Court recommends that on remand to the Commissioner of Social Security, the
19 Appeals Council will remand this case to the Administrative Law Judge (ALJ) to:

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- 21 1. Hold a de novo hearing;
 - 22 2. Issue a new decision;
 - 23 3. Resolve the apparent conflict of interest arising from the medical expert testimony
24 of Arthur L. Lewy, Ph.D., given his concurrent work for DDS and the Center for
25 Disability; and
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1 4. Re-assess medical source evidence as necessitated by the resolution of the
2 preceding issue with the assistance of an impartial medical expert who does not
3 work for the State Agency.

4 Plaintiff may also present new arguments and further evidence, if such evidence becomes
5 available.
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7 The parties stipulate that this case be reversed and remanded to the ALJ on the above
8 grounds pursuant to sentence four of 42 U.S.C. § 405(g). The parties agree that reasonable
9 attorney fees and costs will be awarded under the Equal Access to Justice Act, 28 U.S.C. sec.
10 2412(d), upon proper request to the Court.

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12 Given the fact of the parties' stipulation, the Court recommends that the District Judge
13 immediately approve this Report and Recommendation and order the case **REVERSED** and
14 **REMANDED**. A proposed order accompanies this Report and Recommendation.

15 DATED this 26th day of October, 2011.

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18 Karen L. Strombom
19 United States Magistrate Judge
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