

1 in the event the claim file was not timely located. (Doc. 17). Despite the Court's order, no status
2 reports were filed. (*See* Docket generally.)

3 On July 25, 2008, Defendant lodged the administrative record and the case was reopened.
4 (Docs. 20, 21, 22). The scheduling order required Plaintiff to serve on Defendant a confidential
5 letter brief within 30 days after the administrative record was served, and required Defendant to
6 respond to that letter brief within 35 days. (Doc. 6). It further provided that if Defendant did not
7 stipulate to a remand, Plaintiff must file and serve his opening brief within 30 days after Defendant's
8 response. (*Id.*)

9 On September 10, 2008, Plaintiff, represented by Attorney Sengthiene Bosavanh, and
10 Defendant, represented by Attorney Elizabeth Firer, filed a pleading entitled "Stipulation and
11 [proposed] Order" requesting an extension of time to serve Plaintiff's confidential letter brief.
12 (Doc. 23). On September 11, 2008, the Court denied the request for an extension of time and
13 ordered that "Plaintiff shall have to and including October 10, 2008, to file an opening brief with the
14 Court and to serve it on Defendant." (Doc. 24, p. 2).

15 On November 14, 2008, a pleading entitled "Motion for Extension of Time for Filing
16 Opening Brief" was filed, purporting to have been signed by Attorney Charles D. Oren as attorney
17 for Plaintiff. (Doc. 25). The pleading detailed misconduct and error on the part of an employee of
18 the Law Offices of Jeffrey Milam and "error in fully overseeing" the employee, as the reason why
19 Plaintiff's opening brief had not been filed. (Doc. 25, p. 2). The alleged misconduct includes filing
20 the stipulation and [proposed] order dated September 10, 2008 (Doc. 23) without the review or
21 signature of Plaintiff's attorney. (Doc. 2, p. 2.) The Court's docket reflected that Attorney Charles
22 D. Oren of the Law Offices of Oren & Oren, Inc. and Attorney Sengthiene Bosavanh of the Law
23 Offices of Jeffrey Milam, were (and remain) the attorneys of record for Plaintiff.

24 On November 21, 2008, the Courtroom Deputy for the undersigned received an email from
25 Attorney Charles D. Oren addressed to the undersigned, advising that Attorney Oren's working
26 relationship with the Law Offices of Jeffrey Milam terminated in August 2007, and that he was not
27 involved in the "Motion for Extension of Time for Filing Opening Brief" filed on November 14,
28 2008.

1 As of November 25, 2008, the date the OSC was issued, no opening brief had been filed.
2 Further, the pleading entitled “Motion for Extension of Time for Filing Opening Brief” filed
3 November 14, 2008 (Doc. 25) appeared to be unauthorized by the attorney whose name was affixed
4 to the pleading as the attorney who purportedly signed it as did the “Stipulation and [proposed]
5 Order” filed September 10, 2008 (Doc. 23), assuming the accuracy of Attorney Oren’s
6 representations. Due to those concerns, the Court ordered Plaintiff to show cause why this action
7 should not be dismissed for failure to comply with the Court’s order dated September 11, 2008.
8 (Docs. 24, 26). The OSC further provided that Plaintiff had until December 4, 2008, in which to file
9 an opening brief with the Court and if he did so, the Court would consider that fact in mitigation
10 when deciding whether to discharge the OSC or recommend dismissal of the action. (Doc. 26).

11 The OSC also directed Plaintiff’s attorneys of record, Sengthiene Bosavanh and Charles D.
12 Oren, to demonstrate why the pleadings entitled “Motion for Extension of Time for Filing Opening
13 Brief” (Doc. 25) and “Stipulation and [proposed] Order” (Doc. 23) should not be stricken as
14 improperly filed, and why sanctions should not be imposed against the attorney and/or law firm
15 responsible for causing the misuse of an attorney’s electronic signature and for failing to comply
16 with Local Rule 7-131. (Doc. 26). Respondents were directed to explain to the Court who filed, or
17 caused to be filed, the pleading entitled “Motion for Extension of Time for Filing Opening Brief”
18 (Doc. 25), whether it was signed and authorized by Attorney Oren, and if it was not signed and
19 authorized by him, why sanctions should not be imposed against the attorney and/or law firm who
20 caused it to be filed in this Court. The Court issued the same instructions with respect to the
21 pleading entitled “Stipulation and [proposed] Order” (Docs. 23, 26).

22 DISCUSSION

23 **1. Order to Show Cause**

24 On December 5, 2008, Attorney Bosavanh filed Plaintiff’s opening brief in the above-entitled
25 proceeding. (Doc. 29). The December 5, 2008 filing substantially complies with the Court’s
26 directive to file an opening brief. In compliance with other provisions of the OSC, on December 5,
27 2008, Attorneys Bosavanh and Oren each filed written responses (Docs. 26, 27) presenting their
28 separate versions of the facts giving rise to the matter of most concern to the Court, the apparently

1 unauthorized use of counsel's electronic signatures. Based thereon, the Court concludes that as a
2 result of the division and allocation of caseload responsibilities at the Law Office of Jeffrey Milam
3 during the period in question, Attorney Bosavanh appears to have been unaware of this proceeding,
4 or her association therewith, until the beginning of December, 2008. The Court further concludes
5 that the facts presented are insufficient to establish that Attorney Bosavanh knew that this case
6 required her attention or participation before the beginning of December, 2008.

7 Attorney Oren represented that he had terminated his employment relationship with the law
8 office of Jeffrey Milam sometime in the late summer or early fall of 2007. He further represented
9 that he explicitly advised Mr. Milam, in September and October of 2007, that Mr. Oren's name was
10 not to be used on any pleading filed with the United States District Court for the Eastern District of
11 California in any Social Security case being handled by Mr. Milam's office. Attorney Oren further
12 represented that he was orally assured by Mr. Milam in October, 2007 that no such use would occur.
13 Additionally, Attorney Oren represented to the Court that he did not authorize his signature to be
14 used in this case at any time thereafter, including on the motion for an extension of time filed
15 November, 14, 2008 (Doc. 25), nor did he know he was still an attorney of record in this case until
16 mid-November, 2008.

17 From the information provided by Attorneys Bosavanh and Oren, and Mr. Milam, it appears
18 that the inappropriate electronic use of counsel's signature resulted from management and oversight
19 failures that cannot be attributed to either Attorneys Bosavanh or Oren. It further appears that the
20 documents in question were prepared and filed by staff persons within the law office at which
21 Attorney Bosavanh worked as an employee and at which Attorney Oren formerly worked as an
22 employee. For the foregoing reasons, and the fact that Plaintiff filed his opening brief substantially
23 as directed in this matter, the OSC will be discharged.

24 **2. Substitution of Attorneys**

25 At the close of the December 8, 2008 hearing on the OSC, Attorneys Bosavanh and Oren
26 were ordered to prepare and file a substitution of attorneys in this matter within 48 hours, replacing
27 Attorney Oren with Attorney Bosavanh. The Court received a proposed substitution within that time
28 frame but it did not conform to the provisions of Rule 83-182(g) of the Local Rules of Court:

1 An attorney who has appeared in an action may substitute another
2 attorney and thereby withdraw from the action by submitting a
3 substitution of attorneys that shall set forth the full name and
4 address of the new individual attorney and shall be signed by the
5 withdrawing attorney, the new attorney, and the client. All
substitutions of attorneys shall require the approval of the Court,
and the words "IT IS SO ORDERED" with spaces designated for
the date and signature of the Judge affixed at the end of each
substitution of attorneys.

6 Attorney Bosavanh's and Plaintiff's signatures appeared on that document; Attorney Oren's
7 signature did not. Another submittal by Attorney Bosavanh's office followed but, again, it did not
8 contain Attorney Oren's signature. Attorney Bosavanh's office was advised of the non-conformity.
9 To date, no sufficient substitution of attorneys has been submitted in this matter.

10 This action has been fully briefed and is ready for a decision. It is imperative that a properly
11 executed substitution of attorneys be submitted to this Court forthwith. Attorneys Bosavanh and
12 Oren will be given a further opportunity to file a conforming substitution of attorneys in this matter.

13 **ORDER**

14 Based on the foregoing, the Court makes the following order:

- 15 1. The Court's November 25, 2008 order to show cause (Doc. 26) is DISCHARGED;
- 16 2. Within ten days from the date of service of this order, Attorney Sengthiene Bosavanh and
17 Attorney Charles D. Oren (both counsel of record), are DIRECTED to file a substitution of attorneys
18 that fully conforms to the requirements of Local Rule 83-182(g); and
- 19 3. The Clerk of Court is DIRECTED to serve a copy of this order on all counsel.

20
21 IT IS SO ORDERED.

22 Dated: April 1, 2009
23 _____

/s/ **Theresa A. Goldner**
UNITED STATES MAGISTRATE JUDGE