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UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

RYAN CRAIG STEVENS,
Plaintiff,

v.

COMMISSIONER OF SOCIAL
SECURITY,
Defendant.

) Case No. 1: 12-cv-00020-BAM

) **ORDER SETTING BRIEFING**
) **SCHEDULE**

On January 4, 2012, Plaintiff, proceeding pro se and in forma pauperis, filed a complaint for judicial review of the decision of the commissioner of social security (“Commissioner”) pursuant to 42 U.S.C. § 405(g) and 1383(c)(3) of the Social Security Act. (Doc. 1.) On January 11, 2012, the Court entered a scheduling order governing the briefing schedule in this action.

(Doc. 7.) Pursuant to that order, Plaintiff’s opening brief was due to be filed no later than August 9, 2012. (Doc. 7.) As of August 31, 2012, Plaintiff had not filed his opening brief.

On September 15, the Court issued an Order directing Plaintiff to show cause, if any, why he had not filed his opening brief. (Doc. 15.) After reviewing the parties’ responses to the Order to show cause, the Court directed Plaintiff to file his opening brief no later than November 30, 2012. (Doc. 19.)

1 On December 4, 2012, Plaintiff filed a response to the Court’s Order discharging the
2 previous order to show cause (“Plaintiff’s Response”). (Doc. 20.) Plaintiff’s Response argued
3 that Plaintiff had already served his opening brief on the Commissioner and the Court on July 30,
4 2012.¹ *Id.* On December 18, 2012, the Commissioner responded that he had not received a
5 opening brief from Plaintiff, and that Plaintiff’s evidence indicated he had not filed an opening
6 brief with the Court. (Doc. 21.)

7 Having reviewed Plaintiff’s Response, the Court construes Plaintiff’s Response as an
8 opening brief. *See Bernhardt v. Los Angeles County*, 339 F.3d 920, 925 (9th Cir.2003) (“Courts
9 have a duty to construe pro se pleadings liberally, including pro se motions as well as
10 complaints.”) Taken as a whole, Plaintiff’s Response articulates the reasons for his belief that the
11 Commissioner improperly denied Plaintiff social security benefits. As such, Plaintiff’s Response
12 is properly received as an opening brief.

13 Accordingly, the Court sets the following briefing schedule: The Commissioner shall file
14 his Opposition Brief no later than February 7, 2013. Plaintiff’s Reply Brief shall be filed no later
15 than February 22, 2013. The parties are cautioned that the Court will not permit continuances of
16 these deadlines absent good cause.²

17 IT IS SO ORDERED.

18 **Dated: January 7, 2013**

/s/ Barbara A. McAuliffe
UNITED STATES MAGISTRATE JUDGE

27 ¹ There is no record of Plaintiff’s Opening Brief being filed with the Court.

28 ² The Court notes that Plaintiff’s appeal has been pending since January 4, 2012. (Doc. 1.)