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UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

NORA ELIZABETH DIAZ,)	Case No.: 1:12-cv-00660-SKO
)	
Plaintiff,)	
)	ORDER RE COMPLIANCE WITH
v.)	SCHEDULING ORDER
)	
MICHAEL J. ASTRUE,)	
Commissioner of Social Security,)	
)	
Defendant.)	
_____)	

On April 26, 2012, the Court issued a Scheduling Order requiring that, within 35 days after service of Plaintiff's confidential letter brief, Defendant was to serve a responsive confidential letter brief on Plaintiff. (Doc. 5, ¶ 4.) On May 11, 2012, the Court issued a minute order expressly notifying the parties that the Scheduling Order required counsel to file a separate proof of service with the Court reflecting the date that a party's confidential letter brief was served on the opposing party. (Doc. 6.)

Plaintiff served the confidential letter brief on Defendant on October 3, 2012, and filed a certificate of service with the Court. (Doc. 10 [certificate of service].) Pursuant to the Scheduling Order, Defendant was required to serve a responsive confidential letter brief on Plaintiff within 35

1 days after service of Plaintiff's confidential letter brief – i.e., November 7, 2012. The Federal Rules
2 of Civil Procedure provide that a party is entitled to an additional three (3) days to act when service
3 of a document triggering a response deadline is made either by mail or by electronic means. Fed.
4 R. Civ. P. 5(b)(2)(C), (E); 6(d). Thus, Defendant was required to serve a responsive confidential
5 letter brief on Plaintiff no later than November 13, 2012. Defendant has failed to file a proof of
6 service indicating when the responsive confidential letter brief was served.

7 Accordingly, IT IS HEREBY ORDERED that **no later than November 27, 2012**, Defendant
8 shall **either:**

- 9 1. File a proof of service indicating when service of the responsive confidential letter
10 brief was completed; **or**
- 11 2. File a statement regarding the status of service of the responsive confidential letter
12 brief and how any failure to **timely** serve the brief has affected the parties' schedule
13 in this matter.

14
15
16 IT IS SO ORDERED.

17 **Dated:** November 21, 2012

18 /s/ Sheila K. Oberto
19 UNITED STATES MAGISTRATE JUDGE