

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA**

GILBERT MCKNIGHT,) Case No.: 1:12-cv-00726-AWI-JLT
Plaintiff,)
v.) ORDER STRIKING PLAINTIFF'S OPENING
COMMISSIONER OF SOCIAL SECURITY,) BRIEF
Defendant.)

Plaintiff filed an opening brief in this action on December 10, 2012. (Doc. 16). However, Plaintiff failed to comply with the substantive requirements of an opening brief. The Court's order dated May 22, 2012 instructs an opening brief must contain the following:

(a) a plain description of appellant's alleged physical or emotional impairments, when appellant contends they became disabling, and how they disable appellant from work;

(b) a summary of all relevant medical evidence including an explanation of the significance of clinical and laboratory findings and the purpose and effect of prescribed medication and therapy;

(c) a summary of the relevant testimony at the administrative hearing;...

(Doc. 9 at 3) (emphasis added). The parties were warned: “Briefs that do not substantially comply with these requirements will be stricken.” *Id.* at 4.

Plaintiff asserts the administrative law judge (“ALJ”) erred in evaluation of the medical evidence, rejecting lay witness testimony, and in the assessment of his credibility. However, in

1 Plaintiff's opening brief, he failed to provide summaries of the medical evidence or the testimony
2 provided at the hearing before the ALJ. Rather, the brief states: "Relevant medical facts are discussed
3 in the context of the arguments" and "[r]elevant testimony is discussed in connection with the
4 arguments." (Doc. 16 at 2). This is insufficient to comply with the terms of the Court's order to
5 provide summaries of the evidence.

6 Accordingly, it is **HEREBY ORDERED**:

- 7 1. Plaintiff's opening brief is **STRICKEN**;
- 8 2. Plaintiff **SHALL** file an amended opening brief on or before **January 7, 2013**;
- 9 3. Defendant **SHALL** file a brief in opposition no later than thirty days after the date of
10 service of Plaintiff's amended opening brief; and
- 11 4. Plaintiff's reply, if any, shall be filed within fifteen days of the date of service of
12 Defendant's brief.

13
14 IT IS SO ORDERED.

15 Dated: December 17, 2012

16 /s/ Jennifer L. Thurston
17 UNITED STATES MAGISTRATE JUDGE

18
19
20
21
22
23
24
25
26
27
28