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8 **UNITED STATES DISTRICT COURT**
9 **EASTERN DISTRICT OF CALIFORNIA**
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11 LORNA LYNN DUKE,

12 Plaintiff,

13 v.

14 COMMISSIONER OF SOCIAL SECURITY,

15 Defendant.
16

Case No. 1:16-cv-00333-SAB

ORDER DISCHARGING ORDER TO
SHOW CAUSE AND AMENDING
SCHEDULING ORDER

(ECF Nos. 15, 16)

17 On December 29, 2017 an order issued granting the parties request to amend the
18 scheduling order. The amended schedule required Plaintiff to file her opening brief on or before
19 February 21, 2017. Plaintiff did not file an opening brief in compliance with the December 29,
20 2017 order. On February 23, 2017, an order issued for Plaintiff to show cause why this action
21 should not be dismissed for the failure to file an opening brief in compliance with the scheduling
22 order. Plaintiff filed an opening brief on February 28, 2017. On March 2, 2017, Plaintiff filed a
23 response to the order to show cause.

24 Plaintiff responds that due to the tragic passing of his wife who had been ill with terminal
25 cancer and the impact on his children, counsel has required additional time to prepare and file
26 Plaintiff's opening brief. The Court is sympathetic to counsel's situation and shall discharge the
27 order to show, however, the issue in the Court's mind is that counsel has continued to fail to put
28 in place a system by which to track due dates in pending cases. See Holguin v. Commissioner of

1 Social Security, 1:15-cv-00753-SAB (E.D. Cal. Dec. 18, 2015). If counsel needs additional time
2 to comply with the scheduling order then a stipulation or request for extension needs to be filed
3 prior to the due date.

4 Based on the foregoing, IT IS HEREBY ORDERED that:

- 5 1. The order to show cause, filed February 23, 2017 is DISCHARGED;
- 6 2. Plaintiff's request for a nunc pro tunc extension of time to file the opening brief is
7 GRANTED;
- 8 3. Defendant shall file a response to the opening brief on or before March 30, 2017;
9 and
- 10 4. Plaintiff's reply, if any, shall be filed on or before April 7, 2017.

11 IT IS SO ORDERED.

12 Dated: March 3, 2017


UNITED STATES MAGISTRATE JUDGE