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UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

ROBERTO ALVARADO,

Plaintiff,

v.

COMMISSIONER OF SOCIAL SECURITY,

Defendant.

Case No. 1:16-cv-00746-SAB

ORDER ACCEPTING PLAINTIFF'S
OPENING BRIEF

(ECF No. 19)

Plaintiff Roberto Alvarado filed this action seeking review of the Commissioner's denial of Social Security benefits on May 27, 2016. The parties stipulated to an amendment of the scheduling order which was approved on January 23, 2017. Pursuant to that stipulation, Plaintiff's opening brief was due on March 24, 2017. On March 27, 2017, Plaintiff filed a stipulation for an extension of time to file his opening brief. On March 29, 2017, the Court denied without prejudice the March 27, 2017 stipulation for an extension of time to file Plaintiff's opening brief. The Court also ordered Plaintiff's counsel to serve the March 29, 2017 order on Plaintiff and file a proof of service.

On April 3, 2017, Plaintiff filed his opening brief. On April 5, 2017, the Court issued an order amending the scheduling order and setting deadlines for Defendant's opposition and Plaintiff's reply, if any. In the April 5, 2017 order, the Court noted that it would not address the late opening brief until the March 29, 2017 order was fully complied with. Subsequently on

1 April 5, 2017, a proof of service was filed showing that Plaintiff was served with the March 29,
2 2017 order. As Plaintiff's counsel has now filed the proof of service in compliance with the
3 March 29, 2017 order, the Court shall address Plaintiff's late opening brief.

4 The Court notes that it has reviewed the detailed plan in Clark v. Commissioner of Social
5 Security, 1:16-cv-00437-SAB (E.D. Cal.). While Plaintiff should have filed a renewed request
6 for an extension of time in this matter, when the Court considers the circumstances of this matter,
7 including the fact that an amended scheduling order has issued, and so as to not prejudice the
8 Plaintiff, the Court shall accept Plaintiff's opening brief. However, when firms are unable to
9 meet the obligations in the cases currently pending, the firms should consider whether they
10 should be accepting new cases or to reduce intake so as to avoid these unnecessary orders.
11 Plaintiff's counsel's firm shall be on notice that any further violations of the scheduling orders
12 issued in cases before the undersigned will result in the issuance of sanctions. The parties shall
13 comply with the April 5, 2017 amended scheduling order.

14 Accordingly, IT IS HEREBY ORDERED that:

- 15 1. Plaintiff's April 3, 2017 opening brief shall be accepted; and
- 16 2. Plaintiff's counsel shall serve this order on the firm's managing partner.

17
18 IT IS SO ORDERED.

19 Dated: April 6, 2017


UNITED STATES MAGISTRATE JUDGE