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UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

DWAYNE WILSON,

Plaintiff,

v.

NANCY A. BERRYHILL¹,
Acting Commissioner of Social Security,

Defendant.

) Case No.: 1:16-cv-01012- JLT
)
) ORDER GRANTING THE REQUEST FOR AN
) EXTENSION OF TIME
) (Doc. 23)
)
)
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The parties filed a stipulation for a thirty-day extension of time for Defendant to file a response to Plaintiff’s opening brief. (Doc. 14) The Scheduling Order allows for a single extension of thirty days by the stipulation (Doc. 9 at 4), which was previously used by Plaintiff for the filing of his opening brief. (Docs. 18, 19) Beyond that extension, “requests to modify [the scheduling] order must be made by written motion and will be granted only for good cause.” (Doc. 9 at 4) Accordingly, the Court construes the stipulation as a motion for modification of the briefing schedule.

Here, Defendant’s counsel, Carolyn Chen, reported the extension was necessary because she was out of the office for illness as well as pre-approved leave. (Doc. 23 at 1) Ms. Chen reported she “is still addressing the backlog of cases that had to be continued during her absence,” and must prepare for “[a] hearing, about 10 pending district court briefs, and two pending Equal Employment

¹ Nancy A. Berryhill is now the Acting Commissioner of Social Security. Pursuant to Rule 25(d) of the Federal Rules of Civil Procedure, the Court substitutes Nancy A. Berryhill, Carolyn W. Colvin, as the defendant.

1 Opportunity Commission matters involving a brief in one matter and discovery in another matter that
2 was also recently assigned to Defendant’s counsel as an emergency and that could not be assigned to
3 another attorney.” (*Id.* at 1-2) Given the weight of her workload, Ms. Chen requested “additional time
4 up to and including July 26, 2017, to fully review the record and research the issues presented by
5 Plaintiff’s motion for summary judgment.” (*Id.*)

6 Notably, the same day as Ms. Chen requested additional time to prepare the Commissioner’s
7 response to the opening brief, she was terminated as counsel of record. (*See* Doc. 25) In light of the
8 fact that Plaintiff does not object to the extension of time (*see* Doc. 24) and the need of counsel to learn
9 the facts of the case to prepare the Commissioner’s response, the Court finds good cause to grant the
10 extension of thirty days. Accordingly, the Court **ORDERS**:

- 11 1. Defendant’s request for an extension of time is **GRANTED**; and
- 12 2. Defendant **SHALL** file a response to the opening brief on or before **July 26, 2017**.

13
14 IT IS SO ORDERED.

15 Dated: June 22, 2017

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