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8 **UNITED STATES DISTRICT COURT**
9 **EASTERN DISTRICT OF CALIFORNIA**
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11 DOROTHY WHIPPLE,) Case No.: 1:16-cv-01254- JLT
12 Plaintiff,)
13 v.) ORDER GRANTING EXTENSION OF TIME
14 NANCY A. BERRYHILL¹,) (Doc. 26)
15 Acting Commissioner of Social Security,)
16 Defendant.)

17 On June 28, 2017, the parties filed a stipulation for an extension of forty-five days for
18 Defendant to file a response to Plaintiff's opening brief. (Doc. 26)

19 The Scheduling Order allows for a single extension of thirty days by the stipulation (Doc. 6 at
20 4), which was previously used by Plaintiff for the filing of an opening brief. (Docs. 20, 201) Beyond
21 that extension, "requests to modify [the scheduling] order must be made by written motion and will be
22 granted only for good cause." (Doc. 6 at 4) Accordingly, the Court construes the stipulation as a
23 motion for modification of the briefing schedule.

24 Defendant's counsel, Tina Naicker, asserts the extension is necessary because she is scheduled
25 to be out of the office on the current deadline date of July 3, 2017. (Doc. 26 at 1) In addition, Ms.
26 Naicker asserts that she previously was out of the office on unexpected leave, which resulted in her
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28 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 for her predecessor, Carolyn W. Colvin, as the defendant.

1 falling behind on her caseload. (*Id.*) She reports that she “has over 50 active pending matters, of which
2 require 2+ responses to dispositive motions per week until mid-August.” (*Id.* at 1-2) Given the
3 backlog of her cases and weight of the caseload, Ms. Naicker requests the time for responding to
4 Plaintiff’s opening brief “be extended for forty-five (45) days from July 3, 2017 to August 17, 2017.”
5 (*Id.* at 1, emphasis omitted) Plaintiff does not oppose the request for the extension of time, and
6 stipulates to the proposed modification of the Scheduling Order. (*Id.* at 2) Good cause appearing, the
7 Court **ORDERS**:

- 8 1. Defendant’s request for an extension of time is **GRANTED**; and
- 9 2. Defendant **SHALL** file a response to the opening brief on or before **August 17, 2017**.

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11 IT IS SO ORDERED.

12 Dated: **June 29, 2017**

/s/ Jennifer L. Thurston
UNITED STATES MAGISTRATE JUDGE