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7 **UNITED STATES DISTRICT COURT**  
8 **EASTERN DISTRICT OF CALIFORNIA**  
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10 VERNON PIERCE,

11 Plaintiff,

12 v.

13 COMMISSIONER OF SOCIAL SECURITY.

14 Defendant.

Case No. 1:16-cv-01452-SAB

ORDER DENYING WITHOUT PREJUDICE  
STIPULATION TO EXTEND THE TIME  
FOR PLAINTIFF TO FILE HIS OPENING  
BRIEF

(ECF No. 13)

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16 On September 28, 2016, Plaintiff filed the present action seeking review of the  
17 Commissioner's denial of an application for benefits. On September 30, 2016, the Court issued a  
18 scheduling order. (ECF No. 5). The scheduling order states that in the event Defendant does not  
19 agree to a remand, within thirty (30) days of service of Defendant's response to Plaintiff's  
20 confidential letter brief, Plaintiff shall file an opening brief. (ECF No. 5 at ¶ 6.) On May 2,  
21 2017, Defendant filed a proof of service for her response to Plaintiff's confidential letter brief,  
22 which indicated that Defendant's response was served by electronic mail on Plaintiff's counsel  
23 on May 2, 2017. (ECF No. 12.)

24 On June 6, 2017, Plaintiff filed what is captioned as "STIPULATION TO EXTEND  
25 TIME TO FILE OPENING BRIEF" and docketed as "STIPULATION AND PROPOSED  
26 ORDER for extension of time."<sup>1</sup> (ECF No. 13.) While Plaintiff filed his request as a stipulation,

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28 <sup>1</sup> The Court notes that the proposed order is captioned "[PROPOSED] ORDER EXTENDING BRIEFING SCHEDULE."

1 the Court notes that it is not actually a stipulation. Plaintiff's counsel states that she has not yet  
2 received a response from Defendant's counsel to her request for an extension of time. Therefore,  
3 the stipulation to extend the time for Plaintiff to file his opening brief (ECF No. 13) is denied  
4 without prejudice. Plaintiff can file his request as a motion for an extension of time or file a  
5 stipulation that is signed by Defendant's counsel. Further, a stipulation is an "agreement"  
6 between the parties, which this is not. Counsel is admonished not to give the court misleading  
7 titles in matters submitted to it for consideration. The Court also notes that Plaintiff did not file  
8 the "stipulation" until after the deadline for filing the opening brief passed, so Plaintiff needs to  
9 request the extension nunc pro tunc, which the Court is not inclined to grant absent good cause.

10 The parties are advised that due to the impact of social security cases on the Court's  
11 docket and the Court's desire to have cases decided in an expedient manner, requests for  
12 modification of the briefing scheduling will not routinely be granted and will only be granted  
13 upon a showing of good cause. Further, requests to modify the briefing schedule that are made  
14 on the eve of a deadline will be looked upon with disfavor and may be denied absent good cause  
15 for the delay in seeking an extension. If done after a deadline, the party seeking an extension  
16 must show additional good cause why the matter was filed late with the request for nunc pro  
17 tunc. The parties are reminded that any failures to comply with the scheduling order may result  
18 in sanctions pursuant to Local Rule 110.

19 Accordingly, IT IS HEREBY ORDERED that the stipulation for an extension of time for  
20 Plaintiff to file his opening brief (ECF No. 13) is DENIED WITHOUT PREJUDICE.

21 IT IS SO ORDERED.

22 Dated: June 7, 2017

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25 UNITED STATES MAGISTRATE JUDGE  
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