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**UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF CALIFORNIA**

SARN SING SAECHO,	)	Case No.: 1:16-cv-1716-JLT
Plaintiff,	)	ORDER GRANTING EXTENSION OF TIME
v.	)	(Doc. 15)
NANCY A. BERRYHILL <sup>1</sup> ,	)	
Acting Commissioner of Social Security,	)	
Defendant.	)	

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On August 7, 2017, the parties stipulated for an extension of time for Plaintiff to file an opening brief. (Doc. 15) Plaintiff’s counsel, Monica Perales, asserts that the request is necessary “to allow counsel time to continue contacting plaintiff for potential settlement negotiations.” (*Id.* at 2) According to Ms. Perales, she “has been unsuccessful in contacting plaintiff despite multiple attempts,” and Plaintiff has not been in contact with her since December 2016. (*Id.*) Accordingly, she requests an extension of thirty-one days to file an opening brief. (*Id.* at 1)

Notably, the Scheduling Order permits a single extension by the stipulation of parties. (Doc. 6 at 4) Plaintiff’s counsel is cautioned, however, that the Court will not find the inability to contact Plaintiff to be good cause to grant a further extension of time for the filing of the opening brief. Delays in the litigation based upon a party’s failure to participate results in a presumption of prejudice to the

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<sup>1</sup> 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 opposing party, and will not be condoned by the Court. *See Henderson v. Duncan*, 779 F.2d 1421,  
2 1424 (9th Cir. 1986) (dismissal for failure to prosecute); *Morris v. Morgan Stanley & Co.*, 942 F.2d  
3 648, 652 (9th Cir. 1991) (explaining a plaintiff has the burden “to move toward... disposition at a  
4 reasonable pace”). Accordingly, the Court **ORDERS**:

- 5 1. The request for an extension of time is **GRANTED**; and
- 6 2. Plaintiff **SHALL** file an opening brief no later than **September 5, 2017**.

7  
8 IT IS SO ORDERED.

9 Dated: August 9, 2017

/s/ Jennifer L. Thurston  
UNITED STATES MAGISTRATE JUDGE