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9
10 UNITED STATES DISTRICT COURT
11 EASTERN DISTRICT OF CALIFORNIA
12 FRESNO
13

14 ROSEMARY TAYLOR,

15 Plaintiff,

16 vs.

17 NANCY A. BERRYHILL, Acting
18 Commissioner of Social Security,

19 Defendant.

) CASE No. 1:17-cv-01634-SKO

)
) **STIPULATION TO EXTEND TIME FOR**
) **DEFENDANT TO RESPOND TO**
) **PLAINTIFF'S OPENING BRIEF;**
) **ORDER**

) **(Doc. 13)**

20
21 ROSEMARY TAYLOR (Plaintiff) and NANCY A. BERRYHILL, Acting Commissioner
22 Of Social Security (Defendant or the Commissioner), hereby stipulate, subject to the approval of
23 the Court, to a 30-day extension of time for Defendant to respond to Plaintiff's Opening Brief
24 (Docket Number 12). This is the first request for an extension of time sought in the above-
25 captioned matter. The current deadline was August 24, 2018, and the new deadline would be
26 September 24, 2018. Defendant requests this additional time due to an inadvertent calendaring
27 error and workload. The undersigned currently has 11 oppositions to motions for summary
28 judgment or opening briefs and one oral argument due before the requested deadline.

1 The parties further stipulate that the scheduling order in the above-captioned matter be
2 modified accordingly.

3 Respectfully submitted,

4 LAW OFFICES OF LAWRENCE D. ROHLFING

5
6 Dated: August 27, 2018

By: /s/ Cyrus Safa*

7 CYRUS SAFA

8 Attorney for Plaintiff

[*As authorized by e-mail on August 27, 2018]

9 Dated: August 27, 2018

MCGREGOR W. SCOTT

10 United States Attorney

11 DEBORAH LEE STACHEL

12 Regional Chief Counsel, Region IX

13 By: /s/ Sharon Lahey

14 SHARON LAHEY

15 Assistant Regional Counsel

16 **ORDER**

17 Pursuant to the Court's Scheduling Order, Defendant's responsive brief was due to be filed no
18 later August 24, 2018. (Doc. 5.) The parties filed the above "Stipulation to Extend Time for Defendant
19 to Respond to Plaintiff's Opening Brief" on August 27, 2018—three days after Defendant's answering
20 brief deadline expired. (Doc. 13.)

21 The Court may extend time to act after the deadline has expired because of "excusable neglect."
22 Fed. R. Civ. P. 6(b)(1)(B). Here, although the Stipulation demonstrates good cause under to support the
23 request for extension of time (*see* Fed. R. Civ. P. 16(b)(4)), no such excusable neglect has been
24 articulated—much less shown—to justify the untimeliness of the request. Notwithstanding this
25 deficiency, given the absence of bad faith or prejudice to Plaintiff (as evidenced by her agreement to the
26 extension of time after the deadline), and in view of the liberal construction of Fed. R. Civ. 6(b)(1) to
27 effectuate the general purpose of seeing that cases are tried on the merits, *see Ahanchian v. Xenon Pictures*,

1 *Inc.*, 624 F.3d 1253, 1258–59 (9th Cir. 2010), the Court GRANTS the parties’ stipulated request. **The**
2 **parties are cautioned that future post hoc requests for extensions of time will be viewed with**
3 **disfavor.**

4 IT IS HEREBY ORDERED that Defendant shall have an extension of time, to and including
5 September 24, 2018, by which to file her answering brief. All other deadlines set forth in the
6 Scheduling Order (Doc. 5) are modified accordingly.
7

8 IT IS SO ORDERED.

9
10 Dated: August 28, 2018

/s/ Sheila K. Oberto
UNITED STATES MAGISTRATE JUDGE