1 2 3 4 5 6 7 8 9	MCGREGOR W. SCOTT United States Attorney DEBORAH LEE STACHEL Regional Chief Counsel, Region IX Social Security Administration SHARON LAHEY Special Assistant United States Attorney 160 Spear Street, Suite 800 San Francisco, California 94105 Telephone: 415-977-8963 Facsimile: 415-744-0134 E-mail: Sharon.Lahey@ssa.gov Attorneys for DEFENDANT	
10	UNITED STATES DISTRICT COURT	
11	EASTERN DISTRICT OF CALIFORNIA	
12	FRESNO	
13		
14	ROSEMARY TAYLOR,	CASE No. 1:17-cv-01634-SKO
15	Plaintiff,	STIPULATION AND ORDER TO
16	vs.	EXTEND TIME FOR DEFENDANT TO RESPOND TO PLAINTIFF'S OPENING
17	NANCY A. BERRYHILL, Acting	BRIEF
18	Commissioner Of Social Security,	(Doc. 15)
19	Defendant.	
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21	ROSEMARY TAYLOR (Plaintiff) and NANCY A. BERRYHILL, Acting	
22	Commissioner Of Social Security (Defendant or the Commissioner), hereby stipulate, subject to	
23	the approval of the Court, to a five-day extension of time for Defendant to respond to Plaintiff's	
24	Opening Brief (Docket Number 12). This is the second request for an extension of time sought	
25	in the above-captioned matter. The current deadline was September 24, 2018, and the new	
26	deadline would be September 28, 2018. Defendant requests this additional time because the	
27	Commissioner has agreed to voluntarily remand this case without further briefing.	
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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: September 25, 2018 By: \_/s/ Lawrence D. Rohlfing\* LAWRENCE D. ROHLFING 7 Attorney for Plaintiff [\*As authorized by e-mail on September 25, 2018 8 9 Dated: September 25, 2018 MCGREGOR W. SCOTT 10 United States Attorney DEBORAH LEE STACHEL 11 Regional Chief Counsel, Region IX 12 By: <u>/s/ Sharon Lahev</u> 13 SHARON LAHEY 14 Assistant Regional Counsel 15 16 17 **ORDER** 18 Pursuant to the parties' previous stipulation for an extension of time (Doc. 13) and the Court's 19 order modifying the Scheduling Order in this case, Defendant's responsive brief was due to be filed no 20 later September 24, 2018. (Doc. 14.) The parties filed the above "Stipulation to Extend Time for 21 Defendant to Respond to Plaintiff's Opening Brief" on September 25, 2018—one day after Defendant's 22 answering brief deadline expired. (Doc. 15.) 23 The Court may extend time to act after the deadline has expired because of "excusable neglect." 24 Fed. R. Civ. P. 6(b)(1)(B). Here, although the Stipulation demonstrates good cause under to support the 25 26 request for extension of time (see Fed. R. Civ. P. 16(b)(4)), no such excusable neglect has been

articulated—much less shown—to justify the untimeliness of the request. Notwithstanding this

deficiency, given the absence of bad faith or prejudice to Plaintiff (as evidenced by her agreement to the

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extension of time after the deadline), and in view of the liberal construction of Fed. R. Civ. 6(b)(1) to effectuate the general purpose of seeing that cases are tried on the merits, *see Ahanchian v. Xenon Pictures*, *Inc.*, 624 F.3d 1253, 1258–59 (9th Cir. 2010), the Court GRANTS the parties' stipulated request. The parties are cautioned that future post hoc requests for extensions of time will be viewed with disfavor.

IT IS HEREBY ORDERED that Defendant shall have an extension of time, to and including September 28, 2018, by which to file her answering brief. All other deadlines set forth in the Scheduling Order (Doc. 5) are modified accordingly.

IT IS SO ORDERED.

Dated: September 26, 2018 /s/ Sheila K. Oberto
UNITED STATES MAGISTRATE JUDGE