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**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA**

ELISHA N. BRAITHWAITE,

No. CIV S-09-2922-CMK

Plaintiff,

vs.

ORDER

COMMISSIONER OF SOCIAL
SECURITY,

Defendant.

_____ /

Plaintiff, who is proceeding with retained counsel, brings this action for judicial review of a final decision of the Commissioner of Social Security under 42 U.S.C. § 405(g). On October 5, 2010, the court approved Plaintiff's second stipulation extending the time for filing a motion for summary judgment to October 15, 2010. However, by November 4, 2010, no motion for summary judgment had been filed. The court then issued an order to show cause why this action should not be dismissed for Plaintiff's failure to file a dispositive motion.

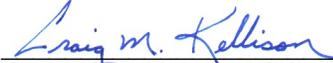
Plaintiff responded to the order to show cause by filing a response and a motion for summary judgment. Counsel indicated that opposing counsel has no objection to her late filed motion.

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1 Good cause appearing therefor, the order to show cause is discharged, and
2 Plaintiff's motion for summary judgment is deemed properly filed. Defendant's cross-motion for
3 summary judgment shall be filed pursuant to the time set forth in the court's scheduling order.

4 IT IS SO ORDERED.

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6 DATED: December 8, 2010

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8 **CRAIG M. KELLISON**
9 UNITED STATES MAGISTRATE JUDGE