

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26

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

ROBERT V. BUSTOS,

Plaintiff,

No. 2:11-cv-01953 KJN

v.

MICHAEL J. ASTRUE,  
Commissioner of Social Security,

ORDER & ORDER TO SHOW CAUSE

Defendant.

\_\_\_\_\_ /

Presently before the court is a stipulation and proposed order filed on January 18, 2012, which seeks a continuance of the deadline for plaintiff to file his motion for summary judgment or remand from January 17, 2012, to March 2, 2012 (Dkt. No. 16). Plaintiff’s counsel’s excuse is once again her “impacted briefing schedule.” The undersigned approves the stipulation despite the fact that plaintiff’s counsel filed it after plaintiff’s initial deadline to file his motion and in violation of Local Rule 144(d) and the court’s order.

However, the undersigned orders plaintiff’s counsel, Bess M. Brewer, to show cause in writing why she should not be sanctioned \$2,500 for her constant inability, at least in cases before the undersigned, to timely file motions for summary judgment or requests for extensions of deadlines. Ms. Brewer, an officer of this court, is an attorney who regularly appears before the undersigned and all too regularly seeks extensions of time based on her

1 “impacted briefing schedule.” Such an excuse is wholly inappropriate, especially when the  
2 undersigned has specifically and repeatedly warned Ms. Brewer of the inadequacy of that excuse;  
3 Ms. Brewer has come to abuse the privilege of seeking extensions of time.

4           The undersigned previously ordered Ms. Brewer to appear and address her failure  
5 to timely prosecute her clients’ cases and to follow the court’s orders and Local Rules. (Ortiz v.  
6 Astrue, No. 2:09-cv-02641 KJN (E.D. Cal.), Order, Aug. 9, 2010, Dkt. No. 25.) During that  
7 hearing, it was noted that the reason for Ms. Brewer’s “impacted briefing schedule” might very  
8 well be that she is taking on more cases than she can actually handle. Despite Ms. Brewer’s  
9 contrition on that occasion, her court appearance, which did not result in the imposition of  
10 monetary sanctions, seems to have had no impact on Ms. Brewer’s approach to accepting cases.  
11 In Ortiz, the undersigned warned Ms. Brewer at the hearing and in the order discharging the  
12 order to show cause that: “her future failures to comply with the court’s orders will result in the  
13 imposition of sanctions, monetary or otherwise, and those sanctions will be significant in the first  
14 instance.”

15           Ms. Brewer appears to be falling behind in her cases again, having recently filed  
16 several requests for extensions, most of which were late-filed. (See, e.g., Pacheco v. Astrue, No.  
17 2:10-cv-1733 KJN (E.D. Cal.) (seeking two extensions); Duong v. Astrue, No. 2:11-cv-00347  
18 KJN (E.D. Cal.) (seeking two extensions); Carson v. Astrue, No. 2:11-cv-0632 KJN (E.D. Cal.)  
19 (seeking two extensions); Feltis v. Astrue, No. 2:11-cv-0723 KJN (E.D. Cal.) (seeking two  
20 extensions); Juarez v. Astrue, No. 2:11-cv-0748 KJN (E.D. Cal.) (seeking two extensions).)  
21 Nearly all of these requests were inadequately and inappropriately premised on Ms. Brewer’s  
22 “impacted briefing schedule.” At this point, Ms. Brewer has left the undersigned with no options  
23 other than to heavily sanction Ms. Brewer, refer her to the California State Bar, or dismiss her  
24 clients’ cases; the undersigned would prefer not to force Ms. Brewer’s clients to suffer dismissals  
25 for Ms. Brewer’s ongoing failures.

26 ///

1 Accordingly, IT IS HEREBY ORDERED that:

2 1. The parties' stipulation (Dkt. No. 16) is approved, and plaintiff shall have  
3 until March 2, 2011, to file a motion for summary judgment or remand.

4 2. The scheduling order in this case is amended accordingly.


5 3. On or before February 10, 2012, plaintiff's counsel, Bess M. Brewer, shall  
6 show good cause in writing why she should not be sanctioned in an amount of \$2,500, for her  
7 ongoing failures to timely prosecute her clients' cases and follow the court's local rules and  
8 orders.

9 4. Ms. Brewer shall appear before the undersigned in regards to this order to  
10 show cause on February 23, 2012, at 10:00 a.m.

11 5. Neither plaintiff nor defendant's counsel need appear at the February 23,  
12 2012 show cause hearing.

13 IT IS SO ORDERED.

14 DATED: January 25, 2012

15  
16   
17 KENDALL J. NEWMAN  
18 UNITED STATES MAGISTRATE JUDGE  
19  
20  
21  
22  
23  
24  
25  
26