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UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

RODERICK TURK,
Plaintiff,
v.
COMMISSIONER OF SOCIAL
SECURITY,
Defendant.

No. 2:13-cv-1248-KJN

ORDER

For the reasons discussed in its February 14, 2014 order, the court directed plaintiff’s counsel to show cause why he should not be personally sanctioned in the amount of \$500 based on his failure to comply with the court’s scheduling deadlines and orders. (ECF No. 12.) That same day, plaintiff filed a response to the order to show cause, a consent to the jurisdiction of a magistrate judge, and a request for dismissal of the action with prejudice. (ECF Nos. 13-15.) In the response to the order to show cause, plaintiff’s counsel indicated that he “makes no excuses for any of his actions and will pay the court’s sanction.” (ECF No. 14.)

In light of plaintiff’s counsel’s candor and willingness to accept responsibility for his failures, the court will reduce the amount of monetary sanctions assessed to \$250.00. Plaintiff’s counsel is reminded that he can avoid such sanctions in the future by filing timely requests for extension of time. The court is cognizant of the occasional need for extensions of time,

1 particularly in high-volume practice areas where multiple briefs may be due at the same time, and
2 more time may be needed to properly evaluate a case and brief the issues. However, the proper
3 way to address such scheduling difficulties is to file a timely request for extension of time before
4 expiration of the applicable deadline.

5 With respect to plaintiff's request for dismissal of the action with prejudice, because the
6 Commissioner has already filed an answer, the action can only be dismissed pursuant to a
7 stipulation of all parties or by court order. See Fed. R. Civ. P. 41(a). It seems unlikely that the
8 Commissioner would oppose dismissal of the action with prejudice. Nevertheless, out of an
9 abundance of caution, the court requires the parties to file a stipulation of dismissal of the action
10 pursuant to Federal Rule of Civil Procedure 41(a)(1)(A)(ii) within fourteen (14) days of this
11 order. Alternatively, the Commissioner may file an opposition to the request for dismissal within
12 fourteen (14) days of this order, specifying the grounds for such opposition.


13 In light of the above, IT IS HEREBY ORDERED that:

- 14 1. Within fourteen (14) days of this order, plaintiff's counsel shall personally pay the
15 Clerk of Court \$250.00 in monetary sanctions based on his failure to comply with the
16 court's scheduling deadlines and orders. Plaintiff's counsel shall not attempt to
17 recover such sanctions from plaintiff, directly or indirectly.
- 18 2. Within fourteen (14) days of this order, the parties shall file a stipulation of dismissal
19 of the action pursuant to Federal Rule of Civil Procedure 41(a)(1)(A)(ii).

20 Alternatively, the Commissioner may file an opposition to the request for dismissal
21 within fourteen (14) days of this order, specifying the grounds for such opposition.

22 IT IS SO ORDERED.

23 Dated: February 18, 2014

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26 KENDALL J. NEWMAN
27 UNITED STATES MAGISTRATE JUDGE
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