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UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

JAMES D.A. SMITH,
Plaintiff,
v.
COMMISSIONER OF SOCIAL
SECURITY,
Defendant.

No. 2:16-cv-1561-KJN

ORDER

On April 17, 2017, the court granted plaintiff an extension until May 17, 2017, to file a motion for summary judgment. (ECF No. 18.) However, that deadline passed without the filing of a motion for summary judgment.

On July 12, 2017, plaintiff filed a motion for summary judgment (ECF No. 20), along with a motion for leave to file a late motion for summary judgment (ECF No. 21). According to plaintiff’s counsel, he inadvertently failed to properly calendar the due date for the motion, and apologizes for his error. The Commissioner does not oppose plaintiff’s motion for leave to file a late brief.

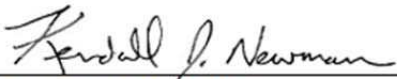
In light of plaintiff’s counsel’s candor and apology, the Commissioner’s non-opposition, and the court’s desire to resolve the action on the merits, the court finds it appropriate to grant the motion.

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Accordingly, IT IS HEREBY ORDERED that:

1. Plaintiff's motion for leave to file a late motion for summary judgment (ECF No. 21) is GRANTED.
2. Plaintiff's motion for summary judgment (ECF No. 20) is DEEMED TIMELY FILED.
3. All other case deadlines are adjusted accordingly.

Dated: July 13, 2017


KENDALL J. NEWMAN
UNITED STATES MAGISTRATE JUDGE