1		
2		
3		
4		
5		
6		
7		
8	UNITED STATES DISTRICT COURT	
9	FOR THE EASTERN DISTRICT OF CALIFORNIA	
10		
11	TOBY JO TODD,	No. 2:16-cv-2498-KJN
12	Plaintiff,	
13	v.	<u>ORDER</u>
14	COMMISSIONER OF SOCIAL SECURITY,	
15	SECURITI,	
16	Defendant.	
17		I
18	Plaintiff, proceeding without counsel, commenced this social security action on October	
19	19, 2016. (ECF No. 1.) Pursuant to the court's October 21, 2016 scheduling order, plaintiff was	
20	required to file a motion for summary judgment and/or remand within 45 days from being served	
21	with a copy of the administrative record. (ECF No. 4.) On February 14, 2017, the Commissioner	
22	lodged the administrative record and served it on plaintiff by U.S. mail. (ECF Nos. 10, 11.)	
23	Plaintiff did not file a motion for summary judgment.	
24	On May 10, 2017, this court ordered plaintiff to show cause in writing why this action	
25	should not be dismissed based upon her failure to file a motion for summary judgment and	
26	prosecute this case. (ECF No. 13.) Plaintiff was also ordered to file a motion for summary	

judgment that meets the requirements of the court's scheduling order, no later than June 12, 2017.

(ECF No. 13.)

Plaintiff submitted a response to the court on June 8, 2017. (ECF No. 14.) Plaintiff indicated that her claim should not be dismissed "because to punish by dismissal is misunderstood for intent, when in fact it is my disability to follow instructions [sic]." (Id.) While the court is sympathetic to plaintiff's situation, her response has not shown sufficient cause for her delay, nor does it qualify as a motion for summary judgment that meets the requirements of the court's prior scheduling order. (See ECF No. 4.)

Due to plaintiff's circumstances, the court will give her one more opportunity to file a motion for summary judgment. The court strongly recommends that plaintiff try to find an attorney to help her in this matter, as she has indicated that she has trouble following directions.

Accordingly, IT IS HEREBY ORDERED that:

- 1. No later than <u>September 5, 2017</u>, plaintiff shall file a motion for summary judgment that meets the requirements of the court's October 21, 2016 scheduling order.
- 2. Failure to timely file a motion for summary judgment will result in dismissal of the action pursuant to Federal Rule of Civil Procedure 41(b).
- 3. The Clerk of Court shall serve another copy of the court's October 21, 2017 scheduling order (ECF No. 4) on plaintiff along with a copy of this order.

IT IS SO ORDERED.

Dated: July 7, 2017

VENDALI I NEVMAN

UNITED STATES MAGISTRATE JUDGE

14/16-2498.todd.SS.order

24 | 25 |