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5 Attorneys for Plaintiff,
 ZAK FRANKLIN HAY

8 UNITED STATES DISTRICT COURT
 9 EASTERN DISTRICT OF CALIFORNIA

10 ZAK FRANKLIN HAY,
 11 Plaintiff,
 12 v.
 13 NANCY A. BERRYHILL, Acting
 Commissioner of Social Security,
 14 Defendant.

Case No. 2:18-cv-01706-EFB
 STIPULATION AND ORDER
 AMENDING SCHEDULING ORDER [ECF
 No. 11]

15 IT IS HEREBY STIPULATED, by and between the parties through counsel of record, subject to
 16 the Court’s approval, that the scheduling order herein be modified as follows:

- 17 1. Plaintiff’s motion for summary judgment will be filed on or before June 10, 2019;
- 18 2. Defendants cross-motion for summary judgement will be filed on or before July 10,
 19 2019; and
- 20 3. Plaintiff’s reply, if any, will be filed on or before July 31, 2019, and if not so filed the
 21 action will be deemed submitted.

22 The parties agree good cause supports modification of the scheduling order (ECF No 11) and that
 23 such modification is further supported by plaintiff’s diligence and excusable neglect.

24 This is plaintiff’s second request for modification of the scheduling order. Pursuant to the first
 25 modification plaintiff’s motion for summary judgment was due May 23, 2019.

26 Plaintiff’s first request for modification of the scheduling order was based on the atypical size of
 27 the administrative record in this action, which exceeds 2,100 pages.

28 The parties stipulation and agreement that the modification is supported by good cause includes
 the following representations of plaintiff’s counsel: Because of the size of the record, procedural

1 history of the claim and number of issues to be considered for presentation, plaintiff's counsel
2 arranged special staffing for this action assigning associate counsel along with my paralegal and
3 added clerical support staff. The draft motion underwent not less than 6 substantive revisions
4 between April 2, 2019 and May 22, 2019, under plaintiff's counsel's input and direction. Due to
5 technical failures associated with plaintiff's brief being worked on by multiple people and from
6 remote locations, however, numerous previously addressed errors and issues recurred in the intended
7 final draft precluding timely filing; defense counsel's agreement to a modification of the order was
8 not obtainable until after May 23, 2019, as the need for modification did not arise until the last
9 minute and on the cusp of a holiday weekend; on recovery of the last, best draft plaintiff's counsel
10 made all revisions personally and diligently, subject only to intervening demands from counsel's pre-
11 existing Siskiyou and Alameda County criminal calendars. Plaintiff's counsel further represents that
12 this modification of the scheduling order is not sought for improper purpose or delay and that
13 counsel believes Sgt. Hay's case meritorious.

14 The parties stipulate and agree further that modification of the scheduling order as provided
15 herein does not unduly prejudice either party.

16 WEEMS LAW OFFICES

17 */s/ Robert C. Weems*
18 Robert C. Weems, attorney for plaintiff
19 ZAK FRANKLIN HAY

ALEX G. TSE,
Acting United States Attorney

/s/ S. Wyeth McAdam
S. WYETH MCADAM
Special Assistant U.S. Attorney
Attorney for Defendant

20
21 **ORDER**

22 PURSUANT TO STIPULATION, IT IS SO ORDERED that the Scheduling Order (ECF No.
23 11) be and hereby is modified as stated in the parties' stipulation.

24 DATED: June 11, 2019.

25 
EDMUND F. BRENNAN
U.S. Magistrate Judge