

UNITED STATES DISTRICT COURT

NORTHERN DISTRICT OF CALIFORNIA

JO ANNE E. HASELTINE,
Plaintiff,
v.
MICHAEL J. ASTRUE,
Defendant.

No. C08-5782 BZ

Before the Court is defendant's motion for relief pursuant to Rule 60(b)(1) from the Court's revised order, which was a consequence of defendant's failure to file an opposition. Plaintiff filed a motion to compel transcript on May 9, 2009. The Court issued an order granting plaintiff's motion on June 3, 2009, on the ground that it was unopposed. At plaintiff's unopposed request, the Court issued a revised order on June 24, 2009. Defendant's motion for relief was filed on August 28, 2008, approximately 90 days after its opposition was due.

Defendant contends that its failure to file an opposition constituted excusable neglect and supported its position with

1 a declaration of counsel. Defendant explains the difficulties
2 that its office has had with the recent departure of four
3 senior attorneys. The office required significant
4 restructuring and the instant case was inadvertently not
5 reassigned. As a result, defendant was unaware that plaintiff
6 filed a motion to compel or a request for a revised order.

7 Plaintiff's opposition makes rambling arguments claiming
8 that the problems that defendant experienced were the sort of
9 administrative problems which do not constitute excusable
10 neglect. Plaintiff also makes accusations that defendant's
11 reason for delay was actually a subterfuge.

12 After considering the factors set forth in Pioneer
13 Investment Services Co. v. Brunswick Associates Ltd.
14 Partnership, 507 U.S. 380 (1993), the Court finds that
15 defendant's delay was understandable and not unduly long.
16 The Court finds no need for argument and **VACATES** the hearing
17 set for Wednesday, October 21, 2009. It is **ORDERED** that
18 defendant's motion for relief is **GRANTED** and the revised order
19 is **VACATED**. It is further **ORDERED** that defendant's opposition
20 to plaintiff's motion to compel shall be filed by **October 1,**
21 **2009** and plaintiff's reply, if any, shall be filed by **October**
22 **9, 2009**. The Court will schedule a hearing if one is
23 necessary.

24 Dated: September 23, 2009



Bernard Zimmerman
United States Magistrate Judge