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UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA

AIHOA T. NGUYEN, Plaintiff, v. CAROLYN W. COLVIN, Acting Commissioner of Social Security, Defendant.	Case No.: 16-cv-1535-JAH-AGS ORDER CONVERTING DEFENDANT’S MOTION TO DISMISS TO A MOTION FOR SUMMARY JUDGMENT ON THE ISSUE OF TIMELINESS
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Case No.: 16-cv-1535-JAH-AGS

**ORDER CONVERTING
 DEFENDANT’S MOTION TO
 DISMISS TO A MOTION FOR
 SUMMARY JUDGMENT ON THE
 ISSUE OF TIMELINESS**

Before the Court is Defendant’s Motion to Dismiss, wherein Defendant argues Plaintiff failed to timely file her complaint pursuant to 42 U.S.C. § 405(g). [Doc. No. 11–1]. The parties have both submitted declarations and exhibits in support of their respective positions. “As a general rule, ‘a district court may not consider any material beyond the pleadings in ruling on a Rule 12(b)(6) motion.’” Lee v. City of Los Angeles, 250 F.3d 668, 688 (9th Cir. 2001) (quoting Branch v. Tunnell, 14 F.3d 449, 453 (9th Cir. 1994) (citation omitted)).

When “matters outside the pleading are presented to and not excluded by the court,” a Rule 12(b)(6) motion is to “be treated as one for summary judgment and disposed of as provided in Rule 56, and all parties shall be given reasonable opportunity to present all material made pertinent to such a motion by Rule 56.” Fed.R.Civ.P. 12(b). The Court shall

1 consider the parties' submitted evidence, and in doing so, converts Defendant's Motion to
2 Dismiss to a Motion for Summary Judgment on the sole issue of timeliness. The parties
3 will have the opportunity to supplement the record should they desire to do so. Any
4 additional evidence shall be submitted to this Court **no later than March 26, 2018.**

5 **IT IS SO ORDERED.**

6 DATED: March 12, 2018

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10 JOHN A. HOUSTON
11 United States District Judge
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