

**UNITED STATES DISTRICT COURT  
DISTRICT OF MAINE**

**DANA C. MORRIS,**

***Plaintiff***

**v.**

**MICHAEL J. ASTRUE,  
*Commissioner of Social Security,***

***Defendant***

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***Civil No. 09-200-B-W***

**RECOMMENDED DISMISSAL**

This appeal from a denial of Social Security benefits was filed on May 21, 2009, by the attorney then representing the plaintiff. Docket No. 1. The plaintiff was granted leave to proceed *in forma pauperis*. Docket No. 5. The defendant timely filed an answer to the complaint. Docket No. 7.

On October 23, 2009, the due date for the plaintiff's itemized statement of errors and fact sheet, the plaintiff's attorney moved to withdraw from representing him, explaining that the plaintiff "insists on a course of action with which the attorneys have a fundamental disagreement and as a result, representation has been rendered unreasonably difficult." Motion for Leave to Withdraw as Counsel (Docket No. 9).

The unopposed motion to withdraw was granted, with the following order entered on the docket and served on the plaintiff:

On the showing made, Attorney FRANCIS JACKSON's representation of the plaintiff is hereby terminated. The plaintiff shall file his statement of errors and fact sheet, either pro se or through successor counsel, on or before November 23, 2009.

Docket No. 11. The plaintiff was thus afforded one month to comply with the court's order.

When the plaintiff failed to file the statement of errors and fact sheet, required by this court's Local Rule 16.3, on or before November 23, 2009, an order to show cause issued on December 3, 2009, directed to the plaintiff, to whom a copy of the order was again mailed, stating as follows:

The record in this matter reflects that plaintiff was order to file an itemized statement of errors and fact sheet on or before November 23, 2009.

Now therefore the plaintiff shall show good cause in writing no later than ten (10) days from this date why this matter should not be dismissed for failure to file the statement of errors and fact sheet, and comply with Loc. R. 16.3(a)(2)(A).

Docket No. 12.

The plaintiff has failed to respond to the order. Notably, in the past, the plaintiff has responded to an order to show cause issued by this court. *Morris v. Maine*, No. CV-08-298-B-W, 2009 WL 387325 (D. Me. Feb. 12, 2009), at \*1.

Since more than 10 days from the date of the order to show cause have now passed without any response from the plaintiff, I recommend that this action be **DISMISSED** for failure to comply with the order to show cause. *See Brown v. General Alum New England Corp.*, No. CV-03-128-B-W, 2004 WL 1572597 (D. Me. Apr. 5, 2004), at \*1.

### **NOTICE**

***A party may file objections to those specified portions of a magistrate judge's report or proposed findings or recommended decisions entered pursuant to 28 U.S.C. § 636(b)(1)(B) for which de novo review by the district court is sought, together with a supporting memorandum, within fourteen (14) days after being served with a copy thereof. A responsive memorandum shall be filed within fourteen (14) days after the filing of the objection.***

*Failure to file a timely objection shall constitute a waiver of the right to de novo review by the district court and to appeal the district court's order.*

Dated this 30th day of December, 2009.

/s/ John H. Rich III  
John H. Rich III  
United States Magistrate Judge