

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF NEW YORK

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KATHLEEN M. MIELNICKI,

Plaintiff,

vs

5:06-CV-1413

MICHAEL J. ASTRUE,

Defendant.

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APPEARANCES:

OOT & ASSOCIATES, PLLC  
Attorneys for Plaintiff  
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Syracuse, NY 13202

OF COUNSEL:

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SOCIAL SECURITY ADMINISTRATION  
Office of Regional General Counsel  
Region II  
26 Federal Plaza - Room 3904  
New York, NY 10278

TOMASINA DIGRIGOLI, ESQ.

DAVID N. HURD  
United States District Judge

**DECISION and ORDER**

Plaintiff filed this action in November 2006, pursuant to 42 U.S.C. §§ 405(g), 1383(c)(3) seeking review of a final decision of the Commissioner of Social Security denying her application for disability insurance benefits and Supplement Security Income. By Report-Recommendation dated June 4, 2009, the Honorable Victor E. Bianchini, United States Magistrate Judge, recommended that defendant's motion for judgment on the pleadings should be denied; plaintiff's cross motion for judgment on the pleadings should be granted in part and denied in part and remanded for further reconsideration.

Based upon a careful review of the entire file and the recommendations of Magistrate Judge Bianchini, the Report-Recommendation is accepted and adopted in whole.

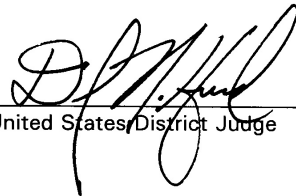
See 28 U.S.C. 636(b)(1). Accordingly, it is

ORDERED that

1. Defendant's motion for judgment on the pleadings is DENIED;
2. Plaintiff's cross-motion for judgment on the pleadings is GRANTED in part and DENIED in part; and
3. This matter is REMANDED to the Commissioner for further consideration consistent with the Report-Recommendation.

IT IS SO ORDERED.

Dated: June 24, 2009  
Utica, New York.



United States District Judge