

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF CALIFORNIA

11	NANG N. RATMYSENG,	)	1:07-cv-01742-SMS
12	Plaintiff,	)	
13	v.	)	<b>ORDER REQUIRING PLAINTIFF TO</b>
14	MICHAEL J. ASTRUE,	)	<b><u>PERSONALLY APPEAR AND SHOW</u></b>
15	Commissioner of Social	)	<b>CAUSE WHY THIS ACTION SHOULD</b>
16	Security,	)	<b>NOT BE DISMISSED FOR FAILURE TO</b>
17	Defendant.	)	<b>FILE AN OPENING BRIEF, FAILURE</b>
		)	<b>TO COMPLY WITH COURT ORDERS,</b>
		)	<b>AND FOR LACK OF PROSECUTION</b>
		)	(Doc. 28)
		)	<b>ORDER DIRECTING CLERK TO</b>
		)	<b>SERVE PRO SE PLAINTIFF AT</b>
		)	<b>TWO ADDRESSES (see page 5)</b>
		)	
		)	<b>DATE: 2/20/09</b>
		)	<b>TIME: 9:30 A.M.</b>
		)	<b>CTRM: 7 ~ Sixth Floor</b>

Plaintiff is proceeding pro se in an action seeking judicial review of an administrative decision of the Commissioner of Social Security that denied, in whole or in part, her claim for benefits under the Social Security Act.

On November 29, 2007, plaintiff, through legal counsel Stuart Barasch, filed her complaint for social security benefits (Doc. 2). On September 8, 2008, Attorney Barasch filed a motion to withdraw as attorney of record for plaintiff (Doc. 23). On

1 September 15, 2008, the Court directed defendant to file either  
2 opposition or non-opposition to the motion to withdraw (Doc. 24).  
3 On September 29, 2008, defendant filed a statement of non-  
4 opposition to the motion to withdraw (Doc. 26). On October 3,  
5 2008, the Court granted Mr. Barasch's motion to withdraw as  
6 attorney of record for plaintiff, resulting in plaintiff's pro se  
7 status and responsibility for the timely prosecution of her  
8 action, with or without new legal counsel; extended the deadline  
9 for plaintiff to serve on defendant a confidential letter brief  
10 to October 20, 2008, as required by the Scheduling Order; and,  
11 informed plaintiff that failure to comply with the Local Rules or  
12 an order of the Court, including the deadline for the filing of  
13 her opening brief, will result in sanctions, including dismissal  
14 of this action (Doc. 27). On October 23, 2008, the Court  
15 extended the time for plaintiff to serve on defendant a  
16 confidential letter brief to November 10, 2008, due to incorrect  
17 information/addresses in the previous court order (Doc. 28). An  
18 e-mail received by Court staff from defense counsel on January  
19 22, 2009, in response to the Court's inquiry, indicates that  
20 plaintiff has not served a confidential letter brief on defendant  
21 as ordered.

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**PERTINENT COURT DOCKET HISTORY**

**DATE            DOC. #    COURT EVENT**

09/08/2008        23    MOTION to WITHDRAW as ATTORNEY *of Record* by Nang N Ratmyseng. (Attachments: # 1 Declaration of Stuart Barasch, # 2 Exhibit A, # 3 Exhibit B) (Barasch, Stuart) (Entered: 9/08/08)

09/15/2008        24    ORDER DIRECTING Defendant to File Opposition or Non-Opposition to Plaintiff's Counsel's Motion to Withdraw 23 No Later Than Fifteen Days After the Date of Service of This Order; ORDER Permitting Plaintiff to File a Response to the Motion to Withdraw No Later Than Fifteen Days After the Date of Service of This Order; ORDER DIRECTING the Clerk to Serve This Order By Mail on Plaintiff at the Address Stated in This Order, signed by Magistrate Judge Sandra M. Snyder on 9/11/08. (Hellings, J) (Entered: 9/15/08)

09/15/2008               SERVICE BY MAIL: 24 Order served on Nang N. Ratmyseng, at 447 N. Diana, Apartment B, Fresno, CA 93701. (Hellings, J) (Entered: 9/15/08)

09/22/2008        25    MAIL RETURNED as Undeliverable "Return To Sender" 24 Order. Mail sent to Nang N. Ratmyseng @ 447 N. Diana, Apt.B, Fresno CA 93701. (Scrivner, E) (Entered: 09/24/2008)

09/29/2008        26    STATEMENT of NON-OPPOSITION by Commissioner of Social Security to *Counsel's Motion to Withdraw as Attorney of Record* (Firer, Elizabeth) (Entered: 9/29/08)

10/03/2008        27    ORDER Granting Plaintiff's Counsel's Motion To Withdraw As Attorney Of Record 23 , ORDER Directing The Clerk To Update The Docket And To Serve This Order On Plaintiff Herself At The Address Specified In This Order, Informational Order To Pro Se Litigants, ORDER Granting Plaintiff An Extension Of Time Until October 20, 2008, To Serve On Defendant A Confidential Letter Brief, signed by Magistrate Judge Sandra M. Snyder on 10/2/08. (Service of Confidential Letter Brief due by 10/20/08) (Scrivner, E) (Entered: 10/3/08)

10/03/2008               SERVICE BY MAIL: 27 Order, served on Nang N Ratmyseng. (Scrivner, E) (Entered: 10/3/08)

10/23/2008               MAIL RETURNED as Undeliverable, "Unable to Forward-Return to Sender": 27 Order sent to Nang N. Ratmyseng. (Martin, S) (Entered: 10/23/08)

10/23/2008        28    ORDER Amending Information sent to Pro Se Litigant; ORDER GRANTING Plaintiff an Extension of Time until November 10, 2008, to serve on Defendant a Confidential Letter Brief, signed by Magistrate Judge Sandra M. Snyder on 10/22/08.(Confidential Letter Brief due by 11/10/2008) (Martin, S) (Entered: 10/23/08)

10/23/2008               SERVICE BY MAIL: 28 Order served on Nang N Ratmyseng (Martin, S) (Entered: 10/23/08)

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1 Pursuant to the deadlines set forth in the Scheduling Order  
2 (Doc. 6), as well as the Informational Order to Pro Se Litigants  
3 (Doc. 27), plaintiff's opening brief was also due filed on or  
4 before January 15, 2009. To date, plaintiff has not served her  
5 confidential letter brief on defendant, has not filed her opening  
6 brief with the court, has not sought extensions of time within  
7 which to satisfy these deadlines, has not complied with court  
8 orders, and has not timely prosecuted her action.

9 Additionally, with regard to the **MAIL RETURNED** docket  
10 entries above, this Court's staff called "AT&T 411 Information  
11 Nationwide" on January 27, 2009 at 10:09 a.m. in an attempt to  
12 obtain a (current) telephone number for plaintiff. The "AT&T 411  
13 Information Nationwide" operator had one telephone number for a  
14 T. Ratmyseng of (559) 485-5585, which this Court's staff then  
15 dialed at 10:10a.m., and spoke to a Sing Sing, plaintiff's  
16 sister, who advised that plaintiff was not there, that T.  
17 Ratmyseng is their mother, and that their address is not 447 but  
18 instead 443 (N. Diana, Apt. B, Fresno, CA, 93701). Further, this  
19 Court's staff then called Attorney Barasch's office at 10:26 a.m.  
20 and spoke to an Oscar Gomez who confirmed the last known address  
21 for plaintiff to be 447 (N. Diana, Apt. B, Fresno, CA, 93701) as  
22 evidenced by the return address on an envelope in which plaintiff  
23 returned to Mr. Barasch his signed fee agreement. Therefore, in  
24 an abundance of caution, the Clerk's Office will be DIRECTED to  
25 serve plaintiff at both addresses (447 and 443) listed below.

26 A failure to comply with an order of the Court may result in  
27 sanctions, including dismissal, pursuant to the inherent power of  
28 the Court or the Federal Rules of Civil Procedure. Fed. R. Civ.

P. 41(b), 11; Local Rule 11-110; Chambers v. NASCO, Inc., 501 U.S. 31, 42-43 (1991).

Therefore, it is HEREBY ORDERED:

1. That this matter is SET for hearing, at which plaintiff must **PERSONALLY APPEAR**, on Friday, **February 20, 2009 at 9:30 a.m.**, in Courtroom No. 7 on the Sixth Floor of the United States Courthouse, 2500 Tulare Street, Fresno, CA, 93721, before the Honorable Sandra M. Snyder, United States Magistrate Judge, to show cause why this action should not be dismissed for her failure to file an opening brief, failure to comply with court orders, and for lack of prosecution. Plaintiff is ADVISED that failure to personally appear on February 20, 2009 at 9:30 a.m., will result in outright dismissal of this action.

2. That the local Assistant United States Attorney personally appear (or otherwise contact the court in advance) on February 20, 2009 at 9:30 a.m.

3. That the Office of the General Counsel appear telephonically by calling chambers directly at (559) 499-5690 on February 20, 2009 at 9:30 a.m. (or otherwise contact the court in advance).

4. That the Clerk's Office serve pro se plaintiff with this order, in an abundance of caution, at both addresses:

c/o Nang N. Ratmyseng  
447 N. Diana, Apt. B  
Fresno, CA 93701

AND

c/o Nang N. Ratmyseng  
443 N. Diana, Apt. B  
Fresno, CA 93701

IT IS SO ORDERED.

**Dated: January 29, 2009**

**/s/ Sandra M. Snyder**  
**UNITED STATES MAGISTRATE JUDGE**