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UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF CALIFORNIA

JIMMY RODRIGUEZ,	)	1:09-cv-00380-OWW-SMS
	)	
Plaintiff,	)	
	)	
v.	)	<b>INFORMATIONAL ORDER</b>
	)	<b>FOR PRO SE LITIGANT</b>
MICHAEL J. ASTRUE,	)	
Commissioner of Social	)	
Security,	)	
	)	
Defendant.	)	

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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, plaintiff's claim for benefits under the Social Security Act.

**This order provides the following helpful information, and basically serves as a step-by-step guide, for pro se litigants. It is strongly suggested that plaintiff read and re-read this order and keep it readily available for future reference.**

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1 I. Attempt at Informal Resolution of the Case

2 Within **one hundred twenty (120) days** after service of  
3 the complaint (served herein by the United States Marshal on  
4 October 5, 2009 (Doc. 14)), defendant is required to serve a copy  
5 of the administrative record on plaintiff, and also file the  
6 administrative record with the Court, which serves as the answer  
7 to the complaint in this proceeding. The administrative record  
8 was filed herein on February 2, 2010 (Doc. 16).

9 Once the administrative record has been filed, the  
10 parties *must* try to resolve the case informally. In this  
11 process, the parties *must* exchange informal briefs in the form of  
12 letters about the case to see if they can agree that the case  
13 should be sent back, or "remanded," to the Social Security  
14 Administration for a further hearing by an administrative law  
15 judge.

16 In the letter brief, plaintiff *must* briefly set forth  
17 **(1)** the issues in the case, **(2)** the reasons why plaintiff thinks  
18 that plaintiff is entitled to Social Security benefits, and **(3)**  
19 why the decision to deny benefits should be remanded.

20 The letter brief *must* be marked "Confidential Letter  
21 Brief", should not be filed with the Court, and *must* be served on  
22 defendant **within thirty (30) days from the date defendant served**  
23 **plaintiff with the administrative record, by mailing copies to**  
24 **all the attorney(s) listed on the court docket as representing**  
25 **defendant**, Commissioner of Social Security, at the addresses  
26 noted on the court docket, herein as follows:

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1 Armand D. Roth  
2 Social Security Administration  
3 Office of General Counsel  
4 333 Market Street, Ste 1500  
5 San Francisco , CA 94105  
6 415-977-8924  
7 Fax: 415-744-0134  
8 Email: Armand.Roth@ssa.gov  
9 LEAD ATTORNEY  
10 ATTORNEY TO BE NOTICED

11 The name of the attorney(s) representing defendant are  
12 added to the court docket at the time the Court receives  
13 defendant's response to the complaint which, again, usually  
14 consists of the administrative record. Sometimes the court  
15 docket lists not only an attorney at the office of the General  
16 Counsel of the Social Security Administration in San Francisco,  
17 CA, but also an attorney at the United States Attorney's Office  
18 in Fresno, CA; in these particular cases, it will then be  
19 necessary for plaintiff to mail copies of the confidential letter  
20 brief to more than one attorney for defendant.

21 Defendant's confidential letter brief *must* be served on  
22 plaintiff no later than **thirty-five (35) days** after defendant is  
23 served with plaintiff's confidential letter brief.

24 If the parties agree to a remand, then the case will go  
25 back to the Social Security Administration before any formal  
26 briefs are filed with the Court, and without the Court ever  
27 considering the merits of the case. The parties' agreement to  
28 remand the case *must* be set forth in writing in a document titled  
"Stipulation and Order," which *must* be signed and filed with the  
Court no later than **fifteen (15) days** after defendant served its  
confidential letter brief on plaintiff. See Local Rule 143(a)(1)  
& (b).

1           The informal letter briefs exchanged by the parties are  
2 confidential in the sense that they are not filed with the Court.  
3 If the parties are unable to agree to a remand, the letters are  
4 not part of the case file and, thus, are not before the Court if  
5 and when the Court finally considers the case on the merits.

6           II. Briefs

7           If, after exchanging confidential letter briefs, the  
8 parties are unable to agree to a remand of the case, then the  
9 parties *must* file formal briefs with the Court as directed in the  
10 Scheduling Order. It is only after the formal briefs are filed  
11 with the Court that the Court will consider the merits of the  
12 case and make a decision.

13           A. Plaintiff's Opening Brief

14           Plaintiff's opening brief *must* be filed and served  
15 no later than **thirty (30) days** from the date defendant's informal  
16 letter brief was served on plaintiff. Plaintiff *must* serve a  
17 copy of the opening brief on all the attorneys listed for  
18 defendant on the court docket of the case at the addresses noted  
19 on the court docket.

20           Plaintiff *must* also file the original opening  
21 brief, together with a copy, with the Court, by either personal  
22 delivery or via U.S. mail to:

23                   Office of the Clerk  
24                   United States District Court  
25                   Eastern District of California  
26                   2500 Tulare Street, Suite 1501  
27                   Fresno, CA 93721

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1 Plaintiff's opening brief must contain the following:

2           **(1)** a plain description of plaintiff's alleged  
3 physical or emotional impairments, when plaintiff contends they  
4 became disabling, and how they disabled plaintiff from work;

5           **(2)** a summary of the administrative proceedings  
6 before the Social Security Administration;

7           **(3)** a summary of the relevant testimony at the  
8 administrative hearing;

9           **(4)** a summary of all relevant medical evidence,  
10 including an explanation of the significance of clinical and  
11 laboratory findings, and the purpose and effect of prescribed  
12 medication and therapy;

13           **(5)** a recitation of the Social Security  
14 Administration's findings and conclusions relevant to plaintiff's  
15 claims;

16           **(6)** a short, separate statement of each of  
17 plaintiff's legal claims stated in terms of the insufficiency of  
18 the evidence to support a particular finding of fact or reliance  
19 on an erroneous legal standard; and,

20           **(7)** argument separately addressing each claimed  
21 error.

22           All references to the administrative record and  
23 all assertions of fact *must* be accompanied by citations to the  
24 administrative record. Argument in support of each claim of  
25 error *must* be supported by citation to legal authority and  
26 explanation of the application of such authority to the facts of  
27 the particular case. Briefs that do not substantially comply  
28 with these requirements will be stricken. A document that is

1 stricken becomes null and void and is not considered by the Court  
2 for any purpose.

3 Plaintiff is further advised that failure to  
4 timely file an opening brief will result in dismissal of the  
5 action.

6 B. Defendant's Brief

7 Pursuant to the Scheduling Order, defendant's  
8 responsive brief is due filed and served on plaintiff within  
9 **thirty (30) days** from the date of service of plaintiff's opening  
10 brief on defendant.

11 C. Plaintiff's Reply Brief

12 Plaintiff may file a reply brief, but is not  
13 required to do so, within **fifteen (15) days** from the date  
14 defendant served its responsive brief on plaintiff. Plaintiff  
15 *must* serve a copy of the reply brief on defendant by serving the  
16 United States Attorney for the Eastern District of California at  
17 the address in Fresno, CA, noted above. Plaintiff *must* also file  
18 the original reply brief, together with a copy, with the Court at  
19 the Court's address in Fresno, CA, noted above.

20 Plaintiff's reply brief should respond to the  
21 arguments made in defendant's responsive brief.

22 III. Motion to Dismiss

23 In some cases, instead of serving and filing an  
24 administrative record, defendant may file a motion to dismiss the  
25 case pursuant to Fed.R.Civ.P. 12., within **one hundred twenty**  
26 **(120) days** from the date defendant is served with plaintiff's  
27 complaint.

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1 Plaintiff may oppose a motion to dismiss by filing and  
 2 serving opposition to the motion within **fourteen (14) days** from  
 3 the date the motion to dismiss was served on plaintiff, and  
 4 should be titled "Opposition to Defendant's Motion to Dismiss."  
 5 See Local Rule 230(c).

6 The Court will consider a motion to dismiss only after  
 7 receiving opposition from plaintiff, or after the time for filing  
 8 opposition has passed. In ruling on a motion to dismiss the case, the  
 9 Court may either (1) deny the motion and proceed with the case,  
 10 ordering the parties to proceed to file the administrative record,  
 11 attempt informal resolution, and file briefs; or, (2) grant the motion  
 12 to dismiss, and dismiss all or part of the case.

13 IV. The Court's Decision on the Merits

14 The Court will consider the merits of the case only after  
 15 all briefs have been filed, and may enter a judgment affirming,  
 16 modifying, or reversing the determination of the Social Security  
 17 Administration. The Court may or may not remand the case to the  
 18 Social Security Administration for a further hearing.

19 V. Summary of Deadline Calculations

20 completed 10/5/09 (Doc. 14)	Service	due <b>20</b> days after filing complaint
21 See Section I. (filed 2/2/10 (Doc. 16))	Administrative Record	due <b>120</b> days after service
22 See Section II. A.	Plaintiff's Opening Brief	due <b>95</b> days after administrative record lodged with court
23 See Section II. B.	Defendant's Brief	due <b>30</b> days after plaintiff's opening brief filed
24 See Section II. C.	Plaintiff's Reply Brief - optional	due <b>15</b> days after defendant's brief filed

1 VI. Rules for Litigating the Action

2 Plaintiff is informed of the following:

3 A. In litigating this action, the parties *must* comply  
4 with the Federal Rules of Civil Procedure (Fed.R.Civ.P.), and the  
5 Local Rules of the United States District Court, Eastern District  
6 of California ("Local Rules"). The Local Rules, effective  
7 January 3, 2005, and amended December 1, 2009 (totaling 270  
8 pages), may be found on court's website at [www.caed.uscourts.gov](http://www.caed.uscourts.gov).

9 Local Rule 206 is a special rule for social  
10 security actions. Specifically (a)(2) generally states that  
11 complaints *shall* contain the last four digits of plaintiff's  
12 social security number *only*, i.e., XXX-XX-1234, and that  
13 plaintiff shall privately disclose to defendant, within **five (5)**  
14 **days** after a request is made to plaintiff, the full social  
15 security number of plaintiff.

16 Therefore, plaintiff shall refrain from disclosing  
17 the entire social security number on any filings.

18 FAILURE TO COMPLY WITH THE LOCAL RULES, FEDERAL  
19 RULES, OR A COURT ORDER, INCLUDING THIS ORDER, WILL BE GROUNDS  
20 FOR DISMISSAL OR OTHER APPROPRIATE SANCTIONS. See Local Rule  
21 110; Fed.R.Civ.P. 41(b).

22 B. Documents intended to be filed with the Court *must*  
23 be mailed to the Clerk of the Court in Fresno, CA, at the address  
24 noted above. See Local Rule 134(a). All documents  
25 inappropriately mailed directly to a judge's chambers will be  
26 stricken from the record. A document requesting a court order  
27 *must* be styled as a motion, not a letter. See Fed.R.Civ.P. 7.

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1 C. Each document submitted for filing *must* include  
2 the original signature of the filing party or parties. Local  
3 Rule 131; Fed.R.Civ.P. 11(a). All documents submitted without  
4 the required signature(s) will be stricken. Each separate  
5 document *must* be separately stapled. See Local Rule 130. If a  
6 document is stapled behind another document, it will not be filed  
7 and will not enter the court docket.

8 D. All documents filed with the Court *must* be  
9 submitted with an additional legible copy to be conformed for the  
10 Court's use. See Local Rule 133(d)(2). A document submitted  
11 without an extra copy for the Court's use will be stricken. If  
12 the filing party wishes the Court to return a file-stamped copy,  
13 an additional copy *must* be provided for that purpose (i.e., an  
14 original and two copies, one for the Court's use and one to be  
15 returned to the filing party), together with a self-addressed,  
16 stamped envelope. The Court cannot provide copy or mailing  
17 service for a party, even for an indigent plaintiff proceeding in  
18 forma pauperis. Copies of documents from the Court's file may be  
19 obtained in the Clerk's Office for fifty (\$.50) cents per page.

20 E. After any defendant has appeared in an action by  
21 filing a pleading responsive to the complaint (i.e., an answer or  
22 a motion to dismiss), all documents filed with the Court *must*  
23 include a proof of service stating that a copy of the document  
24 was served on the opposing party. See 28 U.S.C. § 1746;  
25 F.R.Civ.P. 5; Local Rule 135. **A document submitted without the**  
26 **required proof of service will be stricken.** Where a party is  
27 represented by counsel, service on the party's attorney of record  
28 constitutes effective service.

1 F. A pro se party has an affirmative duty to keep the  
2 Court and opposing parties apprised of a current address. If  
3 plaintiff moves and fails to file a notice of change of address,  
4 service of court orders at plaintiff's prior address shall  
5 constitute effective notice. See Local Rule 182(f). If mail  
6 directed to plaintiff is returned by the United States Postal  
7 Service as undeliverable, the Court will not attempt to re-mail  
8 it. If plaintiff's address is not updated, in writing, within  
9 **sixty (60) days** of mail being returned, the action will be  
10 dismissed for failure to prosecute. See Local Rule 183(b).

11  
12 IT IS SO ORDERED.

13 **Dated: February 5, 2010**

/s/ Sandra M. Snyder  
UNITED STATES MAGISTRATE JUDGE