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UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

ROBERT J. WEHR,)	1:09-cv-02124-SMS
)	
Plaintiff,)	
)	
v.)	INFORMATIONAL ORDER
)	FOR PRO SE LITIGANT
MICHAEL J. ASTRUE,)	
Commissioner of Social)	
Security,)	
)	
Defendant.)	

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 On April 26, 2010, the United States Marshal effected
3 service of process on defendant, and filed a Process Receipt and
4 Return form with the Court (Doc. 12). Within **one hundred twenty**
5 **(120) days** after service of the complaint, defendant is required
6 to serve a copy of the administrative record on plaintiff, and
7 also file the administrative record with the Court, which serves
8 as the answer to the complaint in this proceeding.

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.

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1 The name of the attorney(s) representing defendant are
2 added to the court docket at the time the Court receives
3 defendant's response to the complaint which, again, usually
4 consists of the administrative record. Sometimes the court
5 docket lists not only an attorney at the office of the General
6 Counsel of the Social Security Administration in San Francisco,
7 CA, but also an attorney at the United States Attorney's Office
8 in Fresno, CA; in these particular cases, it will then be
9 necessary for plaintiff to mail copies of the confidential letter
10 brief to more than one attorney for defendant.

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

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

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

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1 II. Briefs

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

8 A. Plaintiff's Opening Brief

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

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

18 Office of the Clerk
19 United States District Court
20 Eastern District of California
21 2500 Tulare Street, Suite 1501
22 Fresno, CA 93721

23 Plaintiff's opening brief *must* contain the following:

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

27 **(2)** a summary of the administrative proceedings
28 before the Social Security Administration;

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

1 (4) a summary of all relevant medical evidence,
2 including an explanation of the significance of clinical and
3 laboratory findings, and the purpose and effect of prescribed
4 medication and therapy;

5 (5) a recitation of the Social Security
6 Administration's findings and conclusions relevant to plaintiff's
7 claims;

8 (6) a short, separate statement of each of
9 plaintiff's legal claims stated in terms of the insufficiency of
10 the evidence to support a particular finding of fact or reliance
11 on an erroneous legal standard; and,

12 (7) argument separately addressing each claimed
13 error.

14 All references to the administrative record and
15 all assertions of fact *must* be accompanied by citations to the
16 administrative record. Argument in support of each claim of
17 error *must* be supported by citation to legal authority and
18 explanation of the application of such authority to the facts of
19 the particular case. Briefs that do not substantially comply
20 with these requirements will be stricken. A document that is
21 stricken becomes null and void and is not considered by the Court
22 for any purpose.

23 Plaintiff is further advised that failure to
24 timely file an opening brief will result in dismissal of the
25 action.

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1 B. Defendant's Brief

2 Pursuant to the Scheduling Order, defendant's
3 responsive brief is due filed and served on plaintiff within
4 **thirty (30) days** from the date of service of plaintiff's opening
5 brief on defendant.

6 C. Plaintiff's Reply Brief

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

15 Plaintiff's reply brief should respond to the
16 arguments made in defendant's responsive brief.

17 III. Motion to Dismiss

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

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

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

9 IV. The Court's Decision on the Merits

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

16 V. Summary of Deadline Calculations

17 See Section I.	Service	due 20 days after filing complaint
18 See Section I.	Administrative Record	due 120 days after service
19 See Section II. A.	Plaintiff's Opening Brief	due 95 days after administrative record lodged with court
20 See Section II. B.	Defendant's Brief	due 30 days after plaintiff's opening brief filed
21 See Section II. C.	Plaintiff's Reply Brief ~ optional	due 15 days after defendant's brief filed

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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 current Local Rules effective
7 March 3, 2010 (totaling 270 pages), may be found on court's
8 website at 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 on defendant will be stricken.** Where a
27 party is represented by counsel, service on the party's attorney
28 of record 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:** May 4, 2010

/s/ Sandra M. Snyder
UNITED STATES MAGISTRATE JUDGE