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**UNITED STATES DISTRICT COURT**  
EASTERN DISTRICT OF CALIFORNIA

REINA I. ZAMANI,

Plaintiff,

v.

MICHAEL J. ASTRUE,  
Commissioner of Social Security,

Defendant.

) Case No.: 1:12-cv-00763-AWI-SKO

) **INFORMATIONAL ORDER**  
) **FOR PRO SE LITIGANTS**

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.**

1           **I. Service of the Complaint**

2           As is outlined in the Scheduling Order issued in this case, except when other provisions are  
3 made pursuant to an application to proceed in forma pauperis, Plaintiff shall serve a copy of the  
4 (1) summons, (2) complaint, (3) notice of availability of a Magistrate Judge and the form of  
5 consent/decline to jurisdiction of the United States Magistrate Judge (see Local Rule 305(a)), and  
6 (4) the Scheduling Order, within **twenty (20) days** of Plaintiff filing the complaint.

7           If Plaintiff is proceeding in forma pauperis, the United States Marshal usually serves the  
8 complaint. However, if Plaintiff is not proceeding in forma pauperis, then Plaintiff or legal counsel  
9 is responsible for service and then filing a proof of service without delay. See Local Rule 210.

10           Lawsuits for review of administrative decisions made by the Commissioner of Social  
11 Security are prosecuted against the Commissioner of Social Security. Federal Rule of Civil  
12 Procedure 4(i)(2) and (3) provide, in substance, that to serve the Commissioner in his official  
13 capacity, the party must serve (1) the United States, and (2) the Commissioner.

14           To serve the United States, a party must:

- 15           (1) Deliver a copy of the summons and complaint to the United States Attorney for the  
16           district where the action is brought, or to an Assistant United States Attorney or  
17           clerical employee whom the United States Attorney designates in a writing filed with  
18           the Court; or, send a copy of the summons and complaint, by certified mail only, to  
19           the Civil Process Clerk at the United States Attorney's Office; and  
20           (2) Send a copy of the summons and complaint, by certified mail only, to the Attorney  
21           General of the United States in Washington, D.C.; and,  
22           (3) Send a copy of the summons and complaint, by certified mail only, to the  
23           Commissioner (the officer of the United States whose order is challenged by the  
24           lawsuit) in San Francisco, California. Fed. R. Civ. P. 4(i)(1)-(3).

25           Initial service of process is thus sufficient if Plaintiff serves, by certified mail only, copies  
26 of the summons and complaint on:

1 Office of the United States Attorney  
Civil Process Clerk  
2 2500 Tulare Street, Suite 4401  
Fresno, CA 93721

3 Office of the Attorney General of the United States  
4 950 Pennsylvania Avenue, N.W.  
Washington, DC 20530-0001

5 Office of the General Counsel  
6 Social Security Administration  
160 Spear Street, Suite 800  
7 San Francisco, CA 94105

8 After service upon these entities, a proof of service must be filed with the Court without  
9 delay pursuant to Local Rule 210. If Plaintiff is proceeding in forma pauperis, the United States  
10 Marshal generally completes the proof of service and files it with the Court. If Plaintiff is not  
11 proceeding in forma pauperis, however, it is Plaintiff's duty to promptly file a proof of service with  
12 the Court.

13 **II. Attempt at Informal Resolution of the Case**

14 Pursuant to the Scheduling Order, within **one hundred twenty (120) days** after service of  
15 the complaint, Defendant is required to serve a copy of the administrative record on Plaintiff *and*  
16 file the administrative record with the Court, which serves as the answer to the complaint in this  
17 proceeding.

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

22 In the letter brief, Plaintiff must briefly set forth (1) the issues in the case, (2) the reasons why  
23 Plaintiff believes that Plaintiff is entitled to Social Security benefits, and (3) why the decision to deny  
24 benefits should be remanded.

25 The letter brief must be marked "Confidential Letter Brief," should not be filed with the  
26 Court, and must be served on Defendant **within thirty (30) days from the date Defendant served**  
27 **Plaintiff with the administrative record, by mailing copies to all the attorneys listed on the**  
28

1 **court docket as representing Defendant**, Commissioner of Social Security, at the addresses noted  
2 on the court docket.

3 The name of the attorney or attorneys representing Defendant are added to the court docket  
4 at the time the Court receives Defendant's response to the complaint which, again, usually consists  
5 of the administrative record. Sometimes the court docket lists not only an attorney at the office of  
6 the General Counsel of the Social Security Administration in San Francisco, California, but also an  
7 attorney at the United States Attorney's Office in Fresno, California. In these particular cases, it will  
8 then be necessary for Plaintiff to mail copies of the Confidential Letter Brief to more than one  
9 attorney for Defendant.

10 Defendant's Confidential Letter Brief must be served on Plaintiff no later than **thirty-five**  
11 **(35) days** after Defendant is served with Plaintiff's confidential letter brief.

12 If the parties agree to a remand, the case will go back to the Social Security Administration  
13 before any formal briefs are filed with the Court, and without the Court ever considering the merits  
14 of the case. The parties' agreement to remand the case must be set forth in writing in the document  
15 titled "Stipulation and Order," which must be signed and filed with the Court **no later than fifteen**  
16 **(15) days** after Defendant served its Confidential Letter Brief on Plaintiff. *See* Local Rule 143(a)(1),  
17 (b).

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

### 22 **III. Briefs**

23 If, after exchanging the Confidential Letter Briefs, the parties are unable to agree to a remand  
24 of the case, then the parties must file formal briefs with the Court as directed in the Scheduling  
25 Order. It is only after the formal briefs are filed with the Court that the Court will consider the  
26 merits of the case and make a decision.

1           A.     Plaintiff's Opening Brief

2           Plaintiff's opening brief must be filed and served **no later than thirty (30) days** from the  
3 date Defendant's informal letter brief was served on Plaintiff. Plaintiff must serve a copy of the  
4 opening brief on all the attorneys listed for Defendant on the court docket of the case at the addresses  
5 noted on the court docket.

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

8                           Office of the Clerk  
9                           United States District Court  
10                          Eastern District of California  
11                          2500 Tulare Street, Suite 1501  
12                          Fresno, California 93721

11          Plaintiff's opening brief must contain the following:

- 12          (1)     A plain description of Plaintiff's alleged physical or emotional impairments, when  
13                  Plaintiff contends they became disabling, and how they disabled Plaintiff from work;  
14          (2)     A summary of the administrative proceedings before the Social Security  
15                  Administration;  
16          (3)     A summary of the relevant testimony at the administrative hearing;  
17          (4)     A summary of all relevant medical evidence, including an explanation of the  
18                  significance of clinical and laboratory findings, and the purpose and effect of  
19                  prescribed medication and therapy;  
20          (5)     A recitation of the Social Security Administration's findings and conclusions relevant  
21                  to Plaintiff's claims;  
22          (6)     A short, separate statement of each of Plaintiff's legal claims stated in terms of the  
23                  insufficiency of the evidence to support a particular finding of fact or reliance on an  
24                  erroneous legal standard; and  
25          (7)     Any argument separately addressing each claimed error.

26          All references to the administrative record and all assertions of fact must be accompanied by  
27 citations to the administrative record. Any argument in support of each claim of error must be  
28 supported by citation to legal authority and an explanation of the application of such authority to the

1 facts of the particular case. **Briefs that do not substantially comply with these requirements will**  
2 **be stricken.** A document that is stricken becomes null and void and is not considered by the Court  
3 for any purpose.

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

6 B. Defendant's Brief

7 Pursuant to the Scheduling Order, defendant's responsive brief must be filed and served on  
8 Plaintiff **within thirty (30) days** from the date of service of Plaintiff's opening brief on Defendant.

9 C. Plaintiff's Reply Brief

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

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

16 **IV. Motion to Dismiss**

17 In some cases, instead of serving and filing an administrative record, Defendant may file a  
18 motion to dismiss the case pursuant to Federal Rule of Civil Procedure 12, **within one hundred**  
19 **twenty (120) days** from the date defendant is served with Plaintiff's complaint.

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

23 The Court will consider a motion to dismiss only after receiving opposition from Plaintiff,  
24 or after the time for filing opposition has passed. In ruling on a motion to dismiss the case, the Court  
25 may either (1) deny the motion and proceed with the case, ordering the parties to proceed to file the  
26 administrative record, attempt informal resolution, and file briefs; or (2) grant the motion to dismiss,  
27 and dismiss all or part of the case.

1           **V. The Court's Decision on the Merits**

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

6           **VI. General Summary of Deadline Calculations**

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<b><u>Event</u></b>	<b><u>Deadline</u></b>	<b><u>Reference</u></b>
8 Service of Complaint	<b>20 days</b> after filing complaint	<i>See Section (I) above</i>
9 Administrative Record	<b>120 days</b> after service of complaint	<i>See Section (II) above</i>
10 Plaintiff's Opening Brief	<b>95 days</b> after administrative record is lodged with Court	<i>See Section (III)(A) above</i>
11 Defendant's Brief	<b>30 days</b> after Plaintiff's opening brief is filed	<i>See Section III(B) above</i>
12 Plaintiff's Reply Brief 13 (Optional)	<b>15 days</b> after Defendant's brief is filed	<i>See Section III(C) above</i>

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15           **VII. Rules for Litigating this Action**

16           Plaintiff is informed of the following:

17           A.       In litigating this action, the parties must comply with the Federal Rules of  
18 Civil Procedure and the Local Rules of the United States District Court, Eastern District of  
19 California ("Local Rules"). A copy of the Local Rules may be obtained in the Clerk's Office at no  
20 charge.

21           Local Rule 206 is a special rule for social security actions. Specifically, sections  
22 (a)(1) and (2) of Rule 206 generally state that complaints shall contain the last four digits of  
23 Plaintiff's social security number only, i.e., XXX-XX-1234, and that Plaintiff shall privately disclose  
24 to Defendant, within **five (5) days** after a request is made to Plaintiff, the full social security number  
25 of Plaintiff. Therefore, Plaintiff shall refrain from disclosing the entire social security number on  
26 any filings.

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

4            B.        Documents intended to be filed with the Court must be mailed to the Clerk  
5 of the Court in Fresno, California, at the address noted above. *See* Local Rule 134(a). All  
6 documents inappropriately mailed directly to a judge's chambers will be stricken from the record.

7 A document requesting a court order must be styled as a motion, not as a letter. *See* Fed. R. Civ. P.  
8 7.

9            C.        Each separate document must be separately stapled. *See* Local Rule 130. If  
10 a document is stapled behind another document, it will not be filed and will not enter the court  
11 docket.

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

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

26            F.        A pro se party has an affirmative duty to keep the Court and opposing parties  
27 apprised of a current address. If Plaintiff moves and fails to file a notice of change of address,  
28 service of court orders at Plaintiff's prior address shall constitute effective notice. *See* Local Rule



1 182(f). If mail directed to Plaintiff is returned by the United States Postal Service as undeliverable,  
2 the Court will not attempt to re-mail it. **If Plaintiff's address is not updated, in writing, within**  
3 **sixty (60) days of mail being returned, the action will be dismissed for failure to prosecute.** *See*  
4 Local Rule 183(b).

5  
6  
7 IT IS SO ORDERED.

8 **Dated: June 7, 2012**

/s/ Sheila K. Oberto  
UNITED STATES MAGISTRATE JUDGE