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

SYLVIA ESTRADA,  
Plaintiff,  
v.  
COMMISSIONER OF SOCIAL SECURITY,  
Defendant.

Case No. 1:16-cv-00497-SAB  
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.**

I. Service of the Complaint

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

If plaintiff is proceeding in forma pauperis, the United States Marshal usually serves the

1 complaint. However, if plaintiff is not proceeding in forma pauperis, then plaintiff or legal  
2 counsel is responsible for service and then filing a proof of service without delay. See Local  
3 Rule 210.

4       Lawsuits for review of administrative decisions made by the Commissioner of Social  
5 Security are prosecuted against the Commissioner of Social Security. Fed.R.Civ.P. 4(i)(2) and  
6 (3) provides, in substance, that to serve the Commissioner in his official capacity, the party **must**  
7 serve **(1)** the United States, and **(2)** the Commissioner.

8       To serve the United States, a party **must**:

9       **(1) deliver** a copy of the summons and complaint to the United States Attorney for  
10 the district where the action is brought, or to an Assistant United States Attorney or clerical  
11 employee whom the United States Attorney designates in a writing filed with the Court; or, **send**  
12 a copy of the summons and complaint, by certified mail **only**, to the Civil Process Clerk at the  
13 United States Attorney's Office; and,

14       **(2) send** a copy of the summons and complaint, by certified mail **only**, to the  
15 Attorney General of the United States in Washington, D.C.; and,

16       **(3) send** a copy of the summons and complaint, by certified mail **only**, to the  
17 Commissioner (the officer of the United States whose order is challenged by the lawsuit) in San  
18 Francisco, CA. Fed.R.Civ.P. 4(i)(1)-(3).

19       Initial service of process is thus sufficient if plaintiff serves, by certified mail **only**, copies  
20 of the summons and complaint on:

21                   Office of the United States Attorney  
22                   Civil Process Clerk  
23                   2500 Tulare Street, Suite 4401  
24                   Fresno, CA 93721

25                   Office of the Attorney General of the United States  
26                   950 Pennsylvania Avenue, NW  
27                   Washington, D.C. 20530-0001

28                   Office of the General Counsel  
29                   Social Security Administration  
30                   333 Market Street, Suite 1500  
31                   San Francisco, CA 94105

1 after which a proof of service must be filed with the Court without delay pursuant to Local Rule  
2 210. If plaintiff is proceeding in forma pauperis, the United States Marshal generally completes  
3 the proof of service and files it with the Court; however, if plaintiff is not proceeding in forma  
4 pauperis, it is plaintiff's duty to promptly file a proof of service with the Court.

5 II. Attempt at Informal Resolution of the Case

6 Pursuant to the Scheduling Order, within **one hundred twenty (120) days** after service  
7 of the complaint, defendant is required to serve a copy of the administrative record on plaintiff  
8 and also file the administrative record with the Court, which serves as the answer to the  
9 complaint in this proceeding.

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

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

17 The letter brief **must** be marked "Confidential Letter Brief", should not be filed with the  
18 Court, and **must** be served on defendant **within thirty (30) days from the date defendant**  
19 **served plaintiff with the administrative record, by mailing copies to all the attorneys listed**  
20 **on the court docket as representing defendant**, Commissioner of Social Security, at the  
21 addresses noted on the court docket.

22 The name of the attorney or attorneys representing defendant are added to the court  
23 docket at the time the Court receives defendant's response to the complaint which, again, usually  
24 consists of the administrative record. Sometimes the court docket lists not only an attorney at the  
25 Office of the General Counsel of the Social Security Administration in San Francisco, CA, but  
26 also an attorney at the United States Attorney's Office in Fresno, CA. In these particular cases, it  
27 will then be necessary for plaintiff to mail copies of the confidential letter brief to more than one  
28 attorney for defendant.

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

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

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

### 13 III. Briefs

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

#### 18 A. Plaintiff's Opening Brief

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

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

25 Office of the Clerk  
26 United States District Court  
27 Eastern District of California  
28 2500 Tulare Street, Suite 1501  
Fresno, CA 93721

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

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

3 (2) a summary of the administrative proceedings before the Social Security  
4 Administration;

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

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

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

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

14 (7) argument separately addressing each claimed error.

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

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

23 B. Defendant's Brief

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

27 C. Plaintiff's Reply Brief

28 Plaintiff may file a reply brief, but is not required to do so, within **fifteen (15) days** from

1 the date defendant served its responsive brief on plaintiff. Plaintiff **must** serve a copy of the  
2 reply brief on defendant by serving the United States Attorney for the Eastern District of  
3 California at the address in Fresno, CA, noted above. Plaintiff **must** also file the original reply  
4 brief, together with a copy, with the Court at the Court’s address in Fresno, CA, noted above.

5 Plaintiff’s reply brief should respond to the arguments made in defendant’s responsive  
6 brief.

7 IV. Motion to Dismiss

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

11 Plaintiff may oppose a motion to dismiss by filing and serving opposition to the motion  
12 within **fourteen (14) days** from the date the motion to dismiss was served on plaintiff, and  
13 should be titled “Opposition to Defendant’s Motion to Dismiss.” See Local Rule 230(c).

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

19 V. The Court’s Decision on the Merits

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

24 VI. Summary of Deadline Calculations

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26 See Section I. above	Service	due <b>20</b> days after filing complaint
27 See Section II. above	Administrative Record	due <b>120</b> days after service

28

1	See Section III. A. above	Plaintiff's Opening Brief	due <b>95</b> days after administrative record lodged with court
2	See Section III. B. above	Defendant's Brief	due <b>30</b> days after plaintiff's opening brief filed
3	See Section III. C. above	Plaintiff's Reply Brief - optional	due <b>15</b> days after defendant's brief filed

4 VII. Rules for Litigating the Action

5 Plaintiff is informed of the following:

6 A. In litigating this action, the parties **must** comply with the Federal Rules of Civil  
7 Procedure (Fed.R.Civ.P.), and the Local Rules of the United States District Court, Eastern  
8 District of California ("Local Rules"). A copy of the Local Rules may be obtained in the Clerk's  
9 Office at no charge.

10 Local Rule 206 is a special rule for social security actions. Specifically (a)(2) and (3)  
11 generally states that complaints **shall** contain the last four digits of plaintiff's social security  
12 number **only**, i.e., XXX-XX-1234, and that plaintiff shall privately disclose to defendant, within  
13 **five (5) days** after a request is made to plaintiff, the full social security number of plaintiff.

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

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

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

23 C. Each document submitted for filing **must** include the original signature of the  
24 filing party or parties. Local Rule 131; Fed.R.Civ.P. 11(a). All documents submitted without  
25 the required signature(s) will be stricken. Each separate document **must** be separately stapled.  
26 See Local Rule 130. If a document is stapled behind another document, it will not be filed and  
27 will not enter the court docket.  
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1 D. All documents filed with the Court **must** be submitted with an additional legible  
2 copy to be conformed for the Court's use. See Local Rule 133(d)(2). A document submitted  
3 without an extra copy for the Court's use will be stricken. If the filing party wishes the Court to  
4 return a file-stamped copy, an additional copy **must** be provided for that purpose (i.e., an original  
5 and two copies, one for the Court's use and one to be returned to the filing party), together with a  
6 self-addressed, stamped envelope. The Court cannot provide copy or mailing service for a party,  
7 even for an indigent plaintiff proceeding in forma pauperis. Copies of documents from the  
8 Court's file may be obtained in the Clerk's Office at the cost of fifty (\$.50) cents per page.

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

15 F. A pro se party has an affirmative duty to keep the Court and opposing parties  
16 apprised of a current address. If plaintiff moves and fails to file a notice of change of address,  
17 service of court orders at plaintiff's prior address shall constitute effective notice. See Local Rule  
18 182(f). If mail directed to plaintiff is returned by the United States Postal Service as  
19 undeliverable, the Court will not attempt to re-mail it. If plaintiff's address is not updated, in  
20 writing, within sixty (60) days of mail being returned, the action will be dismissed for failure to  
21 prosecute. See Local Rule 183(b).

22 IT IS SO ORDERED.

23 Dated: May 4, 2016

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25 \_\_\_\_\_  
26 UNITED STATES MAGISTRATE JUDGE  
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