

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLORADO

Civil Action No. 11-cv-01081-AP

GEORGIANNA MONTGOMERY-BROOKS,

Plaintiff,

v.

MICHAEL J. ASTRUE, Commissioner of Social Security,

Defendant.

JOINT CASE MANAGEMENT PLAN FOR SOCIAL SECURITY CASES

Defendant, Commissioner of Social Security (“Commissioner”), hereby submits this proposed joint case management plan. Pursuant to D.C. COLO. L. CIV. R. 7.1(A), the undersigned counsel for the Commissioner made reasonable, good faith efforts to confer with Plaintiff.

Despite making efforts to confer, the Commissioner was unable to obtain Plaintiff’s agreement to a joint case management plan. The Commissioner’s attorney, Michael Howard, spoke with Plaintiff herself over the phone on August 26, 2011, when she was still a *pro se* party, and a joint case management plan was presented to Plaintiff. Plaintiff indicated she may be hiring an attorney and would evaluate the plan at a later time. Mr. Howard was then out of the office until August 31, 2011, traveling for a court appearance. On August 31, Teresa Abbott entered an appearance in the case, and Mr. Howard contacted Ms. Abbott with a proposed joint case management plan, both via email and telephone. Ms. Abbott did not respond, and the Commissioner filed this proposed joint case management plan.

1. APPEARANCES OF COUNSEL AND *PRO SE* PARTIES

For Plaintiff:

Teresa Abbott
Law Office of Teresa Abbott, P.C.
3515 S. Tamarac Drive, Suite 200
Denver, Colorado 80237
(303) 757-5000

For Defendant:

John F. Walsh
United States Attorney

Kevin T. Traskos
Deputy Civil Chief
United States Attorney’s Office
District of Colorado

William G. Pharo
United States Attorney Office
District of Colorado

Michael Howard
Special Assistant United States Attorney
Office of the General Counsel
Social Security Administration
1001 17th St.
Denver, Colorado 80202
(303) 844-7192
Michael.howard@ssa.gov

2. STATEMENT OF LEGAL BASIS FOR SUBJECT MATTER JURISDICTION

The Court has jurisdiction based on section 205(g) of the Social Security Act, 42 U.S.C. § 405(g).

3. DATES OF FILING OF RELEVANT PLEADINGS

A. Date Complaint was filed: May 6, 2011¹

B. Date Complaint was served on U.S. Attorney's Office: June 13, 2011

C. Date Answer and Administrative Record were filed: August 11, 2011

4. STATEMENT REGARDING THE ADEQUACY OF THE RECORD

The Commissioner states that, to the best of his knowledge, the administrative record is complete.

5. STATEMENT REGARDING ADDITIONAL EVIDENCE

The Commissioner does not intend to submit additional evidence.

6. STATEMENT REGARDING WHETHER THIS CASES RAISES UNUSUAL CLAIMS OR DEFENSES

¹This date refers to Plaintiff's amended complaint.

The defendant Commissioner states that this case involves whether the agency properly declined to waive the collection of an overpayment of benefits. Jurisdiction is found under 42 U.S.C. 405(g); however, this issue is relatively less common than appeals of the denial of disability benefits.

7. OTHER MATTERS

The Commissioner has no other matters to bring to the attention of the Court.

8. BRIEFING SCHEDULE

The Commissioner respectfully requests the following briefing schedule

- A. Plaintiff's opening brief due: **October 10, 2011**
- B. Defendant's response brief due: **November 9, 2011**
- C. Plaintiff's reply brief (if any) due: **November 24, 2011**

9. STATEMENTS REGARDING ORAL ARGUMENT

- A. The Commissioner is not aware of whether Plaintiff requests oral argument.
- B. The Commissioner does not request oral argument.

10. CONSENT TO EXERCISE OF JURISDICTION BY MAGISTRATE JUDGE

The Commissioner consents to the exercise of jurisdiction of a United States Magistrate Judge.

11. OTHER MATTERS

THE PARTIES FILING MOTIONS FOR EXTENSION OF TIME OR CONTINUANCES MUST COMPLY WITH D.C. COLO.L.CivR. 7.1(C) BY SUBMITTING PROOF THAT A COPY OF THE MOTION HAS BEEN SERVED UPON ALL ATTORNEYS OF RECORD AND ALL *PRO SE* PARTIES.

12. AMENDMENTS TO JOINT CASE MANAGEMENT PLAN

The parties agree that the Joint Case Management Plan may be altered or amended only upon a showing of good cause.

DATED this 12th day of September, 2011.

BY THE COURT:

s/John L. Kane
U.S. DISTRICT COURT JUDGE

APPROVED:

/s/
Teresa Abbott
Law Office of Teresa Abbott, P.C.
3515 S. Tamarac Drive, Suite 200
Denver, Colorado 80237
(303) 757-5000

John F. Walsh
United States Attorney

Kevin T. Traskos
Deputy Civil Chief
United States Attorney's Office
District of Colorado

William G. Pharo
United States Attorney Office
District of Colorado

/s/ Michael S. Howard
Michael Howard
Special Assistant United States Attorney
Office of the General Counsel
Social Security Administration
1001 17th St.
Denver, Colorado 80202
(303) 844-7192
Michael.howard@ssa.gov