

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF COLORADO**

Civil Action No. 12-cv-00919-AP

ERNEST WAYNE FREEMAN,

Plaintiff,

v.

COMMISSIONER OF SOCIAL SECURITY,

Defendant.

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Defendant's Case Management Plan

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Defendant hereby submits this proposed case management plan. Undersigned counsel for the Commissioner made reasonable, good faith efforts to confer with Plaintiff as to this matter by attempting to reach Plaintiff via telephone several times over a three different business days. The undersigned was unable to leave voicemails, as Plaintiff's phone would not accept them. Also, the third time the undersigned called there was a recording stating the number was no longer in service. Defendant has incorporated herein Plaintiff's statements and proposals insofar as they can be divined from Plaintiff's previous filings in this case.

**1. APPEARANCES OF COUNSEL**

For Plaintiff: Ernest Freeman (pro se)  
PO Box 474  
Colorado Springs, CO 80901  
(719) 629-8432

For Defendant: Daniel E. Burrows  
Special Assistant U.S. Attorney  
Office of the General Counsel  
Social Security Administration  
1001 17th St  
Denver, CO 80202  
(303) 844-7356  
daniel.burrows@ssa.gov

**2. STATEMENT OF LEGAL BASIS FOR SUBJECT MATTER JURISDICTION**

This Court has jurisdiction based on Social Security Act §§ 205(g) and 1631(c)(3), 42 U.S.C. §§ 405(g), 1383(c)(3) (2006).

**3. DATES OF FILING RELEVANT PLEADINGS**

- A. Date Complaint Was Filed: April 6, 2012
- B. Date Complaint Was Served on U.S. Attorney's Office: April 29, 2012
- C. Date Answer and Administrative Record Were Filed: July 16, 2012

**4. STATEMENT REGARDING THE ADEQUACY OF THE RECORD**

To the best of his knowledge, Defendant believes the administrative record is complete and accurate.

**5. STATEMENT REGARDING ADDITIONAL EVIDENCE**

Defendant does not intend to submit additional evidence. Plaintiff appears to have attached additional evidence to his Complaint.

**6. STATEMENT REGARDING WHETHER THIS CASE RAISES UNUSUAL CLAIMS OR DEFENSES**

Defendant does not believe this case raises any unusual claims or defenses.

**7. OTHER MATTERS**

This case is *not* on appeal from a decision issued on remand. There are no other matters to bring to the attention of the Court.

**8. BRIEFING SCHEDULE**

A. Plaintiff's Opening Brief Due: September 7, 2012

B. Defendant's Response Brief Due: October 8, 2012

C. Plaintiff's Reply Brief (If Any) Due: October 23, 2012

**9. STATEMENTS REGARDING ORAL ARGUMENT**

A. Plaintiff's Statement: Plaintiff's position on oral argument is unknown at this time.

B. Defendant's Statement: Defendant requests oral argument. Defendant's experience with pro se plaintiffs has been that they (understandably) sometimes have difficulty pinpointing precisely what it is about the Commissioner's decision that is being challenged. Defendant thus believes that a short oral argument, with pointed questions

from the judge, would allow Plaintiff the chance to fully flesh out his case (and, accordingly, allow Defendant a chance to respond more fully and appropriately).

**10. CONSENT TO EXERCISE OF JURISDICTION BY MAGISTRATE JUDGE**

Defendant is willing to consent to magistrate judge jurisdiction and will submit the appropriate consent forms if Plaintiff will likewise consent.

**11. AMENDMENTS TO JOINT CASE MANAGEMENT PLAN**

Parties filing motions for extensions of time or continuances must comply with D.C.COLO.LCivR 7.1(E) by submitting proof that a copy of the motion has been served upon the *moving attorney's client*, all attorneys of record, and all pro se parties.

The parties agree that the joint case management plan may be altered or amended only upon a showing of *good cause*.

DATED this 6<sup>th</sup> day of August, 2012.

BY THE COURT:

*s/John L. Kane*

APPROVED:

JOHN F. WALSH  
United States Attorney

WILLIAM G. PHARO

Assistant United States Attorney

*s/ Daniel E. Burrows* \_\_\_\_\_

DANIEL E. BURROWS

Special Assistant U.S. Attorney

Social Security Administration

Office of the General Counsel

1001 17th St

Denver, CO 80202

(303) 844-7356

daniel.burrows@ssa.gov

Attorneys for Defendant

## CERTIFICATE OF SERVICE

I hereby certify that on August 6, 2012, I electronically filed the foregoing Defendant's Proposed Case Management Plan with the Clerk of Court using the CM/ECF system which will send notification of such filing to the following:

William George Pharo  
william.pharo@usdoj.gov

I also sent the foregoing to Plaintiff via U.S. Mail at the address below (as he is not a registered ECF user):

Ernest Freeman  
PO Box 474  
Colorado Springs, CO 80901

s/ Daniel E. Burrows  
Office of the General Counsel  
Social Security Administration