

**IN THE UNITED STATES DISTRICT COURT FOR THE
NORTHERN DISTRICT OF FLORIDA
PANAMA CITY DIVISION**

**JIM S. MARTIN, as surviving
spouse of Sue Rudd Martin,
deceased,
Plaintiff,**

vs.

CASE NO.: 5:09cv335/SPM/MD

**MICHAEL J. ASTRUE
Commissioner of Social Security,
Defendant.**

ORDER

The defendant having filed his answer (doc. 20) to the complaint and a certified copy of the transcript of the administrative proceedings below, the court believes that the interests of justice would be served by allowing the parties an opportunity to file memoranda in support of their respective positions.

Since the plaintiff has the burden to demonstrate that the defendant's decision to deny benefits was incorrect, the plaintiff has the burden to file the first memorandum. Failure of plaintiff to file such a memorandum which specifically addresses the claimed error shall be deemed to be a failure to prosecute and will result in dismissal of the case with prejudice.

Accordingly, it is **ORDERED**:

1. Plaintiff shall have 60 days to file a memorandum not to exceed twenty-five (25) pages in support of his complaint. The memorandum shall set forth the plaintiff's legal contentions and shall specifically cite the record by page number for factual contentions.
2. Defendant shall within thirty days of service of plaintiff's memo file a response, also not to exceed twenty-five (25) pages.

3. The clerk of court is directed to return this file to the undersigned no later than the due date of defendant's response.

DONE AND ORDERED this 9th day of March, 2010.

/s/ Miles Davis

**MILES DAVIS
UNITED STATES MAGISTRATE JUDGE**