

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION**

ANTHONY J. DIMARZIO,

Plaintiff,

Case No. 11-15635

Hon. Gerald E. Rosen

v.

Magistrate Judge Charles E. Binder

COMMISSIONER OF SOCIAL SECURITY,

Defendant.

_____ /

**ORDER IMPOSING SANCTIONS AND
DIRECTING PLAINTIFF TO SECURE SUBSTITUTE COUNSEL**

At a session of said Court, held in
the U.S. Courthouse, Detroit, Michigan
on _____

PRESENT: Honorable Gerald E. Rosen
Chief Judge, United States District Court

By order dated November 9, 2012, the Court directed Plaintiff's attorneys to appear at a December 11, 2012 hearing and address the apparent deficiencies in their representation of Plaintiff in this case. For the reasons stated on the record at the December 11 hearing,

NOW, THEREFORE, IT IS HEREBY ORDERED that Plaintiff's principal counsel in this case, Frederick J. Daley, Jr., shall pay sanctions in the total amount of **\$3,000.00** pursuant to 28 U.S.C. § 1927 and Local Rule 83.22(d) of this District. As stated at the December 11 hearing, these sanctions shall be paid as follows: (i) \$1,000.00 payable to Plaintiff Anthony J. Dimarzio for excess costs and expenses incurred as a

result of the deficiencies in his counsel's representation of him in this case; (ii) \$1,000.00 payable to the Defendant Commissioner for excess attorney fees and expenses incurred in light of the deficiencies in the performance of Plaintiff's counsel; and (iii) \$1,000.00 payable into the Court for excess judicial resources expended in addressing the deficiencies in counsel's performance. In addition, Plaintiff's counsel is directed to return to his client, Mr. Dimarzio, any retainer fees he has received from Mr. Dimarzio in connection with this case. Each of these payments shall be made within *ten (10) days* of the December 11, 2012 hearing, and Mr. Daley shall promptly advise the Court in writing upon his payment of these sanctions.

Next, as further indicated at the December 11 hearing, IT IS HEREBY ORDERED that Plaintiff shall secure substitute counsel within *thirty (30) days* of the date of this order. Upon the entry of an appearance by substitute counsel, Mr. Daley will be permitted to withdraw as Plaintiff's principal counsel, and the motion to withdraw brought by Plaintiff's local counsel, Evan Zagoria, will be granted. Mr. Daley is directed to promptly provide Plaintiff's substitute counsel with copies of all files and records compiled in the course of his representation of Plaintiff in this case. Upon the entry of an appearance by substitute counsel — or at the conclusion of the 30-day period for Plaintiff to secure substitute counsel, in the event that he is unable to do so — this matter will be referred back to the Magistrate Judge for further proceedings.

Finally, IT IS HEREBY ORDERED that the Court has taken under advisement the questions whether to impose additional sanctions against Plaintiff's counsel, and whether

to refer this matter for investigation or disciplinary proceedings pursuant to Local Rule 83.22(c) of this District.

SO ORDERED.

s/Gerald E. Rosen
Chief Judge, United States District Court

Dated: December 14, 2012

I hereby certify that a copy of the foregoing document was served upon the parties and/or counsel of record on December 14, 2012, by electronic and/or ordinary mail.

s/Julie Owens
Case Manager