Szafrajda v Astrue Doc. 4

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEBRASKA

DAVID SZAFRAJDA, Plaintiff, v. MICHAEL J. ASTRUE, Commissioner of the Social Security Administration, Defendant.	)	4:10CV3112 **ORDER**

IT IS ORDERED that Plaintiff's motion to proceed in forma pauperis (filing 2) is granted, and, accordingly, that:

1. Plaintiff shall be allowed to proceed without payment of the filing fee.

2. The Clerk of the court shall send THREE summons forms and THREE USM-285 forms to Plaintiff's attorney of record for service of process on the United States. Federal Rule of Civil Procedure 4(m) requires service of process by no later than 120 days after the filing of a civil complaint.

3. Plaintiff shall, as soon as possible, complete the forms (see attached Notice for persons to be served) and send the completed summonses and USM-285 forms back to the Clerk of the court. In the absence of those forms, service of process cannot occur.

4. Upon receipt of the completed summons forms and USM-285 forms, the Clerk shall sign the summonses and forward them, together with copies of the complaint, to the U.S. Marshal for service on the United States.

5. The Marshal shall serve the United States, without payment of costs or fees. Service shall be effected pursuant to Federal Rule of Civil Procedure 4(i) regarding "[s]erving the United States and Its Agencies, Corporations, Officers, or Employees."

June 23, 2010.

BY THE COURT:

Richard G. Kopf
United States District Judge

Dockets.Justia.com

Notice regarding Federal Rule of Civil Procedure 4(i)

Federal Rule of Civil Procedure 4(i) regarding "[s]erving the United States and Its Agencies, Corporations, Officers, or Employees," states:

(1) *United States.* To serve the United States, a party must:

> (A)(i) deliver a copy of the summons and of the complaint to the United States attorney for the district where the action is brought--or to an assistant United States attorney or clerical employee whom the United States attorney designates in a writing filed with the court clerk--or
>
> (ii) send a copy of each by registered or certified mail to the civil-process clerk at the United States attorney's office;
>
> (B) send a copy of each by registered or certified mail to the Attorney General of the United States at Washington, D.C.; and
>
> (C) if the action challenges an order of a nonparty agency or officer of the United States, send a copy of each by registered or certified mail to the agency or officer.

(2) *Agency; Corporation; Officer or Employee Sued in an Official Capacity.* To serve a United States agency or corporation, or a United States officer or employee sued only in an official capacity, a party must serve the United States and also send a copy of the summons and of the complaint by registered or certified mail to the agency, corporation, officer, or employee.

(3) *Officer or Employee Sued Individually.* To serve a United States officer or employee sued in an individual capacity for an act or omission occurring in connection with duties performed on the United States' behalf (whether or not the officer or employee is also sued in an official capacity), a party must serve the United States and also serve the officer or employee under Rule 4(e), (f), or (g).

(4) *Extending Time.* The court must allow a party a reasonable time to cure its failure to:

> (A) serve a person required to be served under Rule 4(i)(2), if the party has served either the United States attorney or the Attorney General of the United States; or
>
> (B) serve the United States under Rule 4(i)(3), if the party has served the United States officer or employee.