## IN THE UNITED STATES DISTRICT COURT FOR WESTERN DISTRICT OF NORTH CAROLINA CIVIL ACTION NO. 3:09-cv-00048-GCM

WILLIAM H. FREEMAN,	)
	)
PLAINTIFF,	)
	)
VS.	)
	)
MICHAEL J ASTRUE,	)
COMMISSIONER OF SOCIAL SECURITY,	)
	)
DEFENDANT.	)

ORDER

This matter is before the Court on the Plaintiff's Objection to the Memorandum and Recommendation of the Magistrate Judge ("M&R"). The Plaintiff argues that he was not given sufficient opportunity to respond to the Defendant's Motion for Summary Judgment and that he has therefore been prejudiced. Local Rule 7.1(e) gives a party 14 days to respond to a motion. W.D.N.C. R. 7.1(e). Defendant submitted his Motion for Summary Judgment on August 11, 2009, and the magistrate issued his M&R on August 20, 2009–only nine days later. In this jurisdiction, when dealing with a Social Security appeal, the court issues a Pretrial Scheduling Order directing the parties to submit cross motions for summary judgment, to which the parties are not expected to respond. Each motion for summary judgment is effectively each parties opportunity to be heard. The pretrial scheduling order, however, does not explicitly preclude a party from responding to a pending motion for summary judgment.

In order to avoid any potential prejudice to the Plaintiff, the Plaintiff can supplement his objection to the M&R thereby responding to the Defendant's Motion for Summary Judgment. The Court will then, as always, review this appeal *de novo*. Signed: January 6, 2010

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Graham C. Mullen United States District Judge