

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF OREGON

In RE:
Procedure in Cases for Judicial
Review of Decisions of the Social
Security Administration

FILED 09 DEC 28 14 33 USDC-ORP

Standing Order *2009-15*

In cases seeking judicial review of a final decision of the Commissioner of Social Security pursuant to 42 U.S.C. § 405(g), the parties must observe the following procedures.

1. Form of Complaint In all routine cases, a plaintiff shall commence an action by filing a complaint which may conform to the Short Form Social Security Complaint attached to this order and posted on the court's website.
2. Social Security Case Voluntary Settlement Procedure In an effort to resolve a case, the parties may engage in good faith negotiations according to the following schedule:
 - (a) File a Notice of Intent to Engage in Voluntary Settlement Procedures with the Clerk of Court. The court will then extend the due date for the opening brief to 120 days after service of the administrative record. The remaining briefs shall be due in accordance with the Social Security Case Procedural Order issued when the case is filed.
 - (b) Within 45 days after service of the administrative record, plaintiff may prepare a written statement succinctly setting forth the relevant issues and reasons supporting his/her Complaint without citation to legal authorities or reference to attorney fees.
 - (c) This statement should not exceed three single-spaced pages and should be marked "CONFIDENTIAL" and NOT filed with the court. Instead, plaintiff should mail or e-mail the statement to the appropriate officials in the SSA Office of the General Counsel and the US Attorney's office for the District of Oregon.
 - (d) Within 45 days after receipt of plaintiff's statement, defendant shall evaluate the merits of plaintiff's position and serve a brief response on plaintiff. The response shall be marked "CONFIDENTIAL" and NOT filed with the court.

- (e) In the event the parties stipulate to a remand, dismissal, or other resolution of the case, then the stipulation shall be filed with the court within 14 days after service of defendant's response on plaintiff.
 - (f) In the event the parties do not stipulate to a remand, dismissal, or other resolution of the case, then plaintiff shall file and serve an opening brief within 30 days after service of defendant's response on plaintiff. The remaining briefs shall be due in accordance with the Social Security Case Procedural Order.
 - (g) In the event that defendant concedes error, but seeks a remand for further administrative proceedings rather than an award of benefits, then defendant shall file and serve a motion to remand within 30 days after service of defendant's response and plaintiff need not file an opening brief. Plaintiff shall file and serve a response to defendant's motion to remand within 60 days after service of the motion to remand. Defendant may file an optional reply brief within 14 days after service of plaintiff's response to the motion to remand.
3. Briefs - Statement of Issues The plaintiff's opening brief and the defendant's responsive brief shall contain a statement of the specific issues presented for judicial review in a separate section under an appropriate heading.
 4. Briefs - Tables A brief exceeding twenty (20) pages must have a table of contents and a table of cases and authorities with page references. This provision requires that briefs conform to the requirements of Local Rule 7-1(c) for supporting memoranda in motions practice.
 5. Briefs - Page Limits A brief shall not exceed thirty five (35) pages, exclusive of exhibits, without prior court approval. This provision requires that briefs conform to the requirements of Local Rule 7-2(b) for supporting memoranda in motions practice.
 6. Motion to Remand In the event defendant concedes error, but seeks a remand pursuant to sentence four of 42 U.S.C. § 405(g), defendant may file a motion to remand in its responsive brief. This provision creates an exception to Local Rule 7-1(b). Defendant shall identify such a responsive brief by including "Motion to Remand" in the title. The responsive brief shall include a separate statement of the specific issues defendant seeks to address on remand. The inclusion of a motion to remand in defendant's responsive brief will not change the briefing schedule set in the Social Security Case Procedural Order, so that plaintiff's reply to the responsive brief will complete the briefing.
 7. Reopening after Remand In the event a case has been remanded by the court pursuant to sentence six of 42 U.S.C. § 405(g), the plaintiff shall file a motion to reopen the case, with a supporting memorandum, under the case number existing at the time of the remand. The Clerk will not open a new case or assign a different case number, but the action will proceed before the previously assigned judge and under the case number existing at the time of the remand.

8. Time Limits for Fee Applications Under 42 U.S.C. § 406(b) Plaintiff shall submit any application for attorneys' fees under 42 U.S.C. § 406(b) within 60 days after receipt of a Notice of Award of past-due benefits issued by the Commissioner of Social Security. An application submitted beyond the 60-day period will be deemed timely only upon a showing of good cause for the delay. Any application for attorneys' fees under 42 U.S.C. § 406(b) shall be submitted together with a copy of the Notice of Award.

IT IS HEREBY ORDERED that these procedures and policies are adopted and shall take effect December 22, 2009.

DATED this 22 day of December, 2009.



Ann L Aiken, Chief Judge
United States District Court

CASE CAPTION

SHORT FORM COMPLAINT
FOR JUDICIAL REVIEW –
SOCIAL SECURITY CASE

1. Plaintiff seeks judicial review of the Commissioner of Social Security's final agency decision [briefly explain the decision, e.g., denying his/her application for Social Security disability insurance benefits and Supplemental Security Income disability benefits]. The date of the final agency decision [ALJ's] is [enter date]. The date of the Appeals Council's denial of review is [enter date].
2. Plaintiff is a resident of [enter county & state].
3. Plaintiff has exhausted [his/her] administrative remedies and this Court has subject matter jurisdiction under 42 U.S.C. § 405(g).

WHEREFORE, Plaintiff seeks [briefly explain relief sought].